

EXHIBIT 7

**All Nippon Airways
vs.
United Air Lines**

Deposition of

Eishin Yamaguchi

Volume 1

November 27, 2007

Reported By: Brandon Combs, CSR 12978
Job Number: 1-6056

Eishin Yamaguchi

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
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4 ALL NIPPON AIRWAYS COMPANY,)
5 LTD.,)
6 Plaintiff,)
7 vs.) No. C07-03422 EDL
8 UNITED AIR LINES, INC.,)
9 Defendant.)
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13 VIDEOTAPED DEPOSITION OF
14 EISHIN YAMAGUCHI
15
16 November 27, 2007
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21 REPORTER: BRANDON D. COMBS, RPR, CSR 12978 Job 6056
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Eishin Yamaguchi

1	INDEX	PAGE	1	Seven Times Square, New York, NY 10036, represented by
2			2	MARSHALL S TURNER and TIMOTHY ESKRIDGE, Attorneys at
3			3	Law, appeared as counsel on behalf of the Plaintiff
4	EXAMINATION BY MR TORPEY	11	4	WORTHE, HANSON & WORTHE, The Xerox Centre,
5			5	1851 East First Street, Ninth Floor, Santa Ana,
6			6	CA 92705, represented by JEFFREY A WORTHE, Attorney at
7	EXHIBITS		7	Law, appeared as counsel on behalf of the Defendant
8	EXHIBIT DESCRIPTION	PAGE	8	ALSO PRESENT: Steven S Fus; Yoshihiro
9	1 Fourth Amended Notice of Taking Video Depositions.	33	9	Mizuno; Shinsuke Moriya; Sadaaki Matsutani, Interpreter;
10	2 Operations Manual (English).	54	10	Satoe Ohari, Interpreter; Stephen Statler, Videographer.
11	3 SFO Airport Operations Bulletin, July 31, 2000.	104	11	--00--
12	4 SFO Airport Operations Bulletin, August 7, 2001.	104	12	THE VIDEOGRAPHER: Good morning. Here begins
13	5 Recon 1, Photo of gate area.	105	13	Videotape 1 of the deposition of Eishin Yamaguchi in the
14	6 Transcripts - Ramp Tower and Ground Control.	110	14	matter of All Nippon Airways, Limited versus
15	7 October 8, 2003, Van McKenny, NTSB.	127	15	United Airlines, Incorporated in the U S. District Court
16			16	for the Northern District of California. The case
17			17	number is C07-03422 EDL Today's date is November 27,
18			18	2007, and the time on the video monitor is 9:58 a.m.
19	REQUESTED BE MARKED		19	The video operator today is Stephen Statler
20	PAGE	LINE	20	representing Combs Reporting, 595 Market Street,
21	90	6	21	Suite 620, San Francisco And this videotaped
22			22	deposition is taking place at 595 Market Street and was
23			23	noticed by Jaffe Raitt
24			24	Counsel, please voice identify yourselves and
25			25	state whom you represent.
				Page 2
				Page 4
1	UNITED STATES DISTRICT COURT		1	MR. TORPEY: Scott Torpey on behalf of United.
2	NORTHERN DISTRICT OF CALIFORNIA		2	MR. WORTHE: Jeff Worthe for United Airlines.
3	--o0o--		3	MR. FUS: Steve Fus for United Airlines.
4	ALL NIPPON AIRWAYS COMPANY, LTD,	)	4	MR. TURNER: Marshall Turner from
5	Plaintiff,	)	5	Condon & Forsyth for All Nippon Airways.
6	vs	) No. C07-03422 EDL	6	MS. ESKRIDGE: Timothy Eskridge, Condon &
7	UNITED AIR LINES, INC.,	)	7	Forsyth for All Nippon Airways.
8	Defendant.	)	8	MR. MORIYA: Shinsuke Moriya
9		)	9	MR. MIZUNO: Yoshihiro Mizuno.
10			10	MR. TURNER: Also present here is
11			11	Mr. Matsutani, who is an interpreter
12	BE IT REMEMBERED THAT, pursuant to Notice and		12	MR. TORPEY: And Satoe Ohari who is also an
13	on Tuesday, November 27, 2007, commencing at		13	interpreter.
14	9:58 a.m. thereof at 595 Market Street, Suite 620,		14	THE VIDEOGRAPHER: The court reporter today is
15	San Francisco, California, before me, BRANDON D. COMBS,		15	Brandon Combs of Combs Reporting And would the
16	a Certified Shorthand Reporter, personally appeared		16	reporter please administer the oath.
17	EISHIN YAMAGUCHI,		17	(After being duly sworn, the interpreters,
18	called as a witness by the Defendant being first duly		18	Satoe Ohari & Sadaaki Matsutani, translated
19	sworn, testified as follows:		19	questions put to the witness into the Japanese
20	--00o--		20	language and the answers thereto given by the
21	JAFFE, RAITT, HEUER & WEISS, 27777 Franklin		21	witness were translated into the English
22	Road, Suite 2500, Southfield, MI 48034-8214, represented		22	language.)
23	by SCOTT R. TORPEY, Attorney at Law, appeared as counsel		23	--o0o--
24	on behalf of the Defendant.		24	MR. TORPEY: I'd like --
25	CONDON & FORSYTH, LLP, Times Square Tower,		25	MR. TURNER: Just a couple of housekeeping
				Page 3
				Page 5

2 (Pages 2 to 5)

Eishin Yamaguchi

<p>1 matters. To begin with, since this is the first 2 deposition being taken in this case, I want to make it 3 clear that this deposition is being taken pursuant to 4 the Federal Rules of Civil Procedure; is that correct? 5 MR. TORPEY: That's correct. 6 MR. TURNER: All objections except as to form 7 being reserved to the time of trial. 8 MR. TORPEY: The rules provide that all 9 objections other than form and foundation are preserved 10 and there is no need to raise them. It also provides 11 that there are no speaking objections 12 MR. TURNER: In view of the fact that we have 13 received five deposition notices with differing requests 14 for documents, I just want to quickly go over them and 15 make it clear what has been and is being produced. 16 MR. TORPEY: Well, let me do this, Marshall. 17 I don't want this to, you know, detract or take away 18 from the amount of time we have here today with the 19 witness. We can discuss that at another time. If you 20 have additional documents you're producing here today, 21 produce them. Otherwise we can discuss this at another 22 time. 23 MR. TURNER: This will just take a few 24 minutes. In view of the fact that we received five 25 notices, I think it has to be clear, a couple of them</p>	<p>1 Those documents are here. If we can have an 2 agreement on them, you can examine the witness on them. 3 Without an order, you cannot have copies, but I may let 4 you see them so you can examine the witness. 5 The third item in that second deposition 6 notice contains documents regarding ground handling 7 agreement. This witness has no knowledge of documents 8 recording ground handling agreements. 9 The second amended notice, which was the third 10 notice we received in late September, that is exactly 11 the same as the second one. Nothing further to be 12 produced there. 13 Two, a third amended notice and a fourth 14 amended notice were both received last week. They 15 request some additional documents including ANA 16 operation manual in existence on the day of the 17 accident, October 7, 2003. 18 This witness has not had any opportunity to 19 attempt to locate such a document nor does he know if 20 there is a document that is in existence. You, of 21 course, can examine him on this. 22 He did however obtain from ANA's legal 23 department a section that he believes is the only 24 conceivably relevant section which is current. Some of 25 it was applicable in October of '03. Some of it may not</p>
<p>Page 6</p> <p>1 having been received just last week 2 The first one, which is the original notice, 3 has an Exhibit A requesting only the All Nippon Airways 4 investigation file. That was fully produced as part of 5 our initial disclosure 6 The second one -- notice is an amended notice 7 to take video deposition. That was received in mid 8 September. And there are a couple of additional 9 requests in addition to the accident investigation file 10 in Exhibit A. 11 Number 2 requests All Nippon Airways pilot 12 files which requests all accidents/incidents that the 13 pilots, in this case Mr. Yamaguchi, may have been 14 involved in or received disciplinary action. There are 15 no such accidents/incidents or disciplinary action. It 16 also requests certificates and training from 1995 to 17 date. 18 We do have his certificates, and we do have 19 his record of training, but these are documents that 20 contain personal information that we would only produce 21 if we have a confidentiality order. And to my knowledge 22 I have not received such an order from United's counsel, 23 although the court did direct that United's counsel 24 provide us with an order pursuant to her order. And we 25 had a hearing on November 13.</p>	<p>1 have been, but you're welcome to look at that version 2 Also, you asked for all the publications on 3 board the aircraft, required to be onboard the aircraft 4 on October 7, 2003. This witness does not have control 5 over those documents, and he has not had the opportunity 6 to look for them since he didn't see this notice 7 actually until yesterday. 8 And you also asked for routing in item 7 of 9 the third and fourth amended notices, his routing on the 10 day of October 7, 2003. This witness has not had the 11 opportunity to look for them. He doesn't know if it 12 still exists for the day of October 7, 2003, but he does 13 know from whom he would have obtained such routing. And 14 it was neither ANA nor United Airlines. He knows the 15 company he received it from. 16 That's all I have on these notices because I 17 have a few documents that he also obtained that are 18 included in the ANA accident investigation file, but he 19 doesn't have and never had access to and never saw the 20 complete ANA investigation file that has been produced 21 in this case. 22 MR. TORPEY: Well, let me quickly respond. 23 First of all, as I said in both conversation and by 24 letter, I was and continue to be willing to make any 25 documents that you believe are confidential and should</p>

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3 (Pages 6 to 9)

Eishin Yamaguchi

<p>1 be subject to the protective order retroactively covered 2 under that order, and to date you refused. 3 Secondly, this notice, which is the notice 4 dated November 19, 2007, was sent on that day by fax and 5 email to your office. You filed no objections as 6 required if you have an objection. 7 And you can laugh, Marshall. I think that's 8 disrespectful. Do whatever you like. Say whatever you 9 like. But here we are at the deposition. You're 10 prepared to produce some but not all of the documents 11 And to add to that, this was a notice by a 12 party to this case to another party. This is not a 13 notice to Mr. Yamaguchi personally. 14 Now you chose not to produce documents, and, 15 as you know, we have a motion that's going to be filed 16 with the court, and we're asking the court to take 17 appropriate action with regard to what you've done. 18 I don't think there's anything more that I 19 need to say. If you want to hand me documents you're 20 producing in response to my notice, I'll look at them to 21 the extent I can. But it won't be possible for me to 22 spend much time on them nor will I have the ability to 23 consult with my experts which I would certainly have 24 done had you produced this as required. 25 There was a document request sent to you, as</p>	<p>1 Q. You're the pilot in command of a Boeing 777 2 commercial airliner, correct, sir? 3 A. Yes. 4 MR. TURNER: I hate to interrupt. Is it okay 5 with the translators and you if Mr. Matsutani kindly 6 chimes in once in a while? 7 MR. TORPEY: Well, here's what I think. I 8 think, with all due respect to Mr. Yamaguchi, I don't 9 think it's necessary that every question and every 10 answer be translated. This is a commercial airline 11 pilot. He speaks every day fluently, I'm sure, with air 12 traffic control. The regulations require that. That's 13 part of his job. 14 And for us to sit here for hours with 15 translation that's unnecessary, I think is unnecessary. 16 I think if and when there comes a point in time that the 17 witness feels that there is a language problem, then 18 certainly one or both interpreters can weigh in. But 19 otherwise I think, Marshall, all we're doing is wasting 20 a bunch of time. It's not really up to you. I would 21 ask Mr. Yamaguchi. 22 Q. And let me ask you -- 23 MR. TURNER: Hold it. Before you ask a 24 question, you've made a comment on the record. I'm 25 entitled to respond.</p>
<p style="text-align: center;">Page 10</p>	<p style="text-align: center;">Page 12</p>

4 (Pages 10 to 13)

Eishin Yamaguchi

1 It's my deposition of this witness Ms. Ohari is going
 2 to interpret this.
 3 If your interpreter believes that something is
 4 interpreted incorrectly, then I welcome him to speak up
 5 and correct it. You know, we've both done this before
 6 many times, so this is not something new.
 7 But I also -- and I'll stand on this,
 8 Marshall -- we can have him -- we can have Satoe and
 9 your interpreter interpret every single question if
 10 that's what you are going to direct happen here today.
 11 But I can tell you that we will not finish this
 12 deposition here today under any circumstances, let alone
 13 in the seven hours allowed by the federal rules
 14 So I'm asking -- so that we don't have to come
 15 here for an additional period of time in the future, I'm
 16 asking that the witness, when possible, be able to be
 17 asked and answer questions in English.

18 To the extent he feels uncomfortable, I would
 19 welcome Mr. Yamaguchi to turn to Mr. Ohari or your
 20 interpreter and ask for assistance. I think that's very
 21 reasonable, and that's what I'd ask you to do Marshall
 22 MR. TURNER: The main reason that we haven't
 23 gotten any questions out in almost 15 minutes is mostly
 24 your talking on the subject. It was a very simple
 25 comment. I thought it was constructive, and I think

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1 Mr. Yamaguchi, what positions have you held when you
 2 started at ANA up to today?
 3 A. At first I was copilot for Boeing 767. Then I
 4 was copilot for 747-400, and now I am captain of 777
 5 Q. And how long have you been a captain for the
 6 777?
 7 A. Seven years
 8 Q. Okay. So roughly since 2000 sometime?
 9 A. Yes.
 10 Q. If you remember, when approximately in 2000?
 11 A. It was from February of 2000.
 12 Q. And did you -- or have you flown the last
 13 seven years anything else other than a 777 for ANA?
 14 A. No
 15 Q. We had talked a little bit at the outset about
 16 your proficiency with English. Do you read English?
 17 A. I can read in English about aeronautical
 18 matters, but I do not believe that I can read other
 19 things in English with accuracy.
 20 Q. Do you think reading an English newspaper is
 21 something you could do?
 22 A. No. I do not think so
 23 Q. Can you write in English?
 24 A. To a certain degree.
 25 Q. And with regard to your responsibilities as a

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1 you're agreeing to it. Let's get on with the
 2 deposition. The witness is entitled to, and we'll use,
 3 the interpreter.
 4 MR. TORPEY: So you're directing that the
 5 interpreter has to translate every question and answer?
 6 MR. TURNER: That's the way the deposition is
 7 going to go, yes.
 8 MR. TORPEY: All right. Then we'll deal with
 9 that at another time.
 10 Q. Mr. Yamaguchi, I apologize, sir, for the
 11 delay. I won't take any more of your time than is
 12 necessary today. Would you start by giving us your full
 13 name, please.
 14 A. My name is Eishin Yamaguchi.
 15 Q. And, Mr. Yamaguchi, where are you employed,
 16 sir?
 17 A. By ANA, All Nippon Airways.
 18 Q. And how long have you been with ANA?
 19 A. 17 years.
 20 Q. And how old are you, sir?
 21 A. I am 44.
 22 Q. Was ANA your first aviation-related
 23 employment?
 24 A. Yes, that's right.
 25 Q. And just give me a little background,

1 captain and/or a pilot in command of a 777 for ANA, are
 2 you required to be able to speak and understand in the
 3 English language?
 4 A. I would like the question in Japanese once
 5 more. No.
 6 Q. Okay. When you fly and communicate with air
 7 traffic control, what language do you speak to them in?
 8 A. Ordinarily in English.
 9 Q. So let's say you're flying into Narita, you're
 10 talking to air traffic control, you'd speak to them in
 11 English; correct?
 12 A. I do speak in English, but if it was a
 13 complicated matter, I would communicate in Japanese.
 14 Q. If you're flying to the United States and
 15 you're talking to air traffic control, you would talk to
 16 them in English; right?
 17 A. That's right.
 18 Q. You would not speak to air traffic control in
 19 the U.S. in any other language; correct?
 20 A. No.
 21 Q. No, you would not speak in any other tongue
 22 than English?
 23 A. That's right.
 24 Q. With regard to publications by Boeing, for
 25 example, relating to your aircraft, are those published

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5 (Pages 14 to 17)

Eishin Yamaguchi

1 in English?	1 recollection of the events at SFO on October 7, '03?
2 A. Translations were distributed to us.	2 A. I don't have personal knowledge, but I have a
3 Q. When did you arrive in the United States prior	3 recollection to a certain degree.
4 to today, sir?	4 Q. Okay. Your ANA's lawyer may have told you
5 A. I arrived yesterday.	5 this, but if not, I'll do so
6 Q. About what time?	6 If you don't recall something Mr. Yamaguchi,
7 A. I arrived at 9:00 a.m.	7 then just tell us you don't know or you don't recall.
8 Q. 9:00 a.m. And did you arrive having been a	8 We don't want you to guess here today. So that if you
9 working crew member on an ANA flight?	9 do answer, we're going to assume that you correctly
10 A. No. I came as a passenger.	10 understood the question and that you've given us an
11 Q. And when are you scheduled to go back?	11 answer based on your -- what we'll call personal
12 A. Tomorrow.	12 knowledge, that you're not guessing.
13 Q. And at what time, sir?	13 Will you do that for us?
14 A. The flight is scheduled to leave at 11:00 a.m.	14 A. Yes.
15 Q. And goes to where?	15 Q. And again, I say this respectfully, being
16 A. Narita	16 sworn to tell the truth, of course, you will do so in
17 Q. And will you be working that flight or just be	17 response to my questions; correct, sir?
18 a passenger again?	18 A. Yes.
19 A. As a passenger.	19 Q. What professional licenses do you hold or
20 Q. Do you have a period of time before you return	20 certificates, sir?
21 on a working flight?	21 A. I have an ATR certification to work as a
22 THE INTERPRETER: I'd like the question read	22 captain and the certification for the aircraft model
23 again.	23 based on that. I also have a license for aeronautical
24 MR. TORPEY: I'll just rephrase it.	24 radio communication. Furthermore, I have a physical
25 Q. Mr. Yamaguchi, when are you next scheduled to	25 examination certificate. So in total I have three

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1 fly as a crew member for ANA?	1 Q. The radio certificate, what does that permit
2 A. The third of next month.	2 you to do?
3 Q. Third of December?	3 A. I am allowed to operate the radio
4 A. Yes.	4 communication equipment on an aircraft
5 Q. Other than the attorney for ANA, did you have	5 Q. Which allows you to talk to air traffic
6 a chance to speak to anyone else about your giving a	6 control and other authorities, if you will?
7 deposition here today?	7 A. Yes.
8 A. Are you asking aside from Mr. Turner?	8 Q. Are your licenses or certificates issued by a
9 Q. Yes, sir.	9 Japanese government authority or the U.S. counterpart or
10 A. No. Not anyone else besides Mr. Turner.	10 some other authority?
11 Q. After the day of the incident involved in this	11 A. It has -- they were issued by the Japanese
12 case, which is October 7 of 2003, have you ever had an	12 authorities.
13 opportunity to talk to anyone other than Mr. Turner or a	13 Q. Is your understanding of the English language
14 member of his law firm about what took place that day?	14 about the same today as it was back on October 7, '03?
15 A. No.	15 A. Yes.
16 Q. Okay. You haven't talked to Mr. Usui, that's	16 Q. On the day of this accident, Mr. Yamaguchi,
17 U-s-u-i, or Mr. Nishiguchi about this matter since the	17 the flying pilot or copilot, Mr. Nishiguchi, and the
18 accident?	18 observer pilot, Mr. Usui, had you ever before flown with
19 A. I talked with them on the day of the accident	19 them?
20 Q. But not since then about the accident?	20 A. Yes.
21 A. No.	21 Q. And can you tell me about how many times you
22 Q. I assume this is the first time you've ever	22 would have flown with Mr. Nishiguchi, the flying pilot
23 given a deposition or been involved in litigation?	23 or copilot?
24 A. It's my first time.	24 A. I do not recall the number of times, but it
25 Q. Do you still have a personal knowledge or	25 was a two-day flight, so I have flown several times with

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6 (Pages 18 to 21)

Eishin Yamaguchi

<p>1 him</p> <p>2 Q. So as of the time this accident occurred on</p> <p>3 October 7, '03, would you say you'd flown with</p> <p>4 Mr. Nishiguchi maybe more than a dozen times?</p> <p>5 A. No. I have not flown with him as many as 12</p> <p>6 times.</p> <p>7 Q. What's your best recollection of times you</p> <p>8 flew with Mr. Nishiguchi before October 7, '03, with</p> <p>9 Mr. Nishiguchi being a flying crew member?</p> <p>10 A. How shall I count this. For example, one</p> <p>11 flight from Tokyo to Osaka would count as once?</p> <p>12 Q. Yeah. Fair enough. That would be fine.</p> <p>13 A. If that is the case, it would be maximum six</p> <p>14 times.</p> <p>15 Q. Would those all have been in a 777?</p> <p>16 A. Yes.</p> <p>17 Q. And on those six occasions, were you the pilot</p> <p>18 not flying and Mr. Nishiguchi was the pilot flying?</p> <p>19 A. No. Sometimes I was the pilot, and sometimes</p> <p>20 Mr. Nishiguchi was.</p> <p>21 CHECK INTERPRETER: Sometimes I was the pilot</p> <p>22 flying; sometimes Mr. Nishiguchi was the pilot flying</p> <p>23 MR. TORPEY: Q. The six times, how many</p> <p>24 separate trips did that comprise?</p> <p>25 A. Three flights a day, and there were two such</p>	<p>1 the accident, can you give me, Mr. Yamaguchi, an idea of</p> <p>2 how many times you would have flown with Mr. Usui?</p> <p>3 A. I was talking about that one round-trip before</p> <p>4 the day of the accident.</p> <p>5 Q. Okay. Understood. Then let me ask you, since</p> <p>6 the date of the accident, have you flown with Mr. Usui?</p> <p>7 A. I have not flown with him</p> <p>8 Q. Is Mr. Usui a check airman?</p> <p>9 A. He is so today.</p> <p>10 Q. Was he back on October 7 of '03?</p> <p>11 A. I recall that he was in training to be a</p> <p>12 checker.</p> <p>13 Q. Prior to the day of this accident,</p> <p>14 Mr. Yamaguchi, had you ever flown a 777 aircraft with</p> <p>15 Mr. Nishiguchi to or out of San Francisco airport?</p> <p>16 A. No</p> <p>17 Q. Do you know if Mr. Nishiguchi at any time</p> <p>18 prior to October 7, '03, ever flew a 777 aircraft in or</p> <p>19 out of San Francisco airport?</p> <p>20 A. Although I do not know the number of times, I</p> <p>21 believe that he was flying in and out of San Francisco</p> <p>22 frequently.</p> <p>23 Q. As a crew member of a 777 aircraft; is that</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p>Page 22</p> <p>1 days. But it could have been less than that.</p> <p>2 Q. Are there other pilots that you fly with more</p> <p>3 frequently than -- that you did fly with prior to this</p> <p>4 accident more frequently than Mr. Nishiguchi?</p> <p>5 A. I do not recall.</p> <p>6 Q. Have you flown with him since the date of the</p> <p>7 accident?</p> <p>8 A. Yes</p> <p>9 Q. And do you remember on how many different</p> <p>10 trips?</p> <p>11 A. I do not have a clear or accurate</p> <p>12 recollection.</p> <p>13 Q. Okay. Would you say it was more than six</p> <p>14 trips?</p> <p>15 A. No. I think it is less than six.</p> <p>16 Q. How about with Mr. Usui?</p> <p>17 A. It was a one return trip, so shall we say that</p> <p>18 it was two times?</p> <p>19 CHECK INTERPRETER: One round-trip</p> <p>20 THE INTERPRETER: I said return trip, so it's</p> <p>21 the same thing</p> <p>22 MR. TORPEY: Q. So I'm clear then since the</p> <p>23 date of the accident, you had one round-trip --</p> <p>24 A. Yes</p> <p>25 Q. -- with Mr. Usui. And prior to the date of</p>	<p>Page 24</p> <p>1 Q. Okay. And with regard to yourself, as a crew</p> <p>2 member of a 777 aircraft, prior to October 7 of '03, is</p> <p>3 that a trip you frequently made?</p> <p>4 A. Although I do not recall the exact number of</p> <p>5 times, I was doing that as a crew member almost every</p> <p>6 month.</p> <p>7 Q. Okay. When you say every month, how many</p> <p>8 times on average per month would you be a crew member</p> <p>9 for a 777 going into or out of San Francisco?</p> <p>10 A. Are you talking about the time before the</p> <p>11 accident?</p> <p>12 Q. Yes, sir. So that would be from when you</p> <p>13 started as a 777 captain in February of 2000 to</p> <p>14 October 7, '03, how many times per month would you be</p> <p>15 the pilot flying or pilot not flying, crew member of an</p> <p>16 ANA aircraft to or from San Francisco?</p> <p>17 A. I believe that it would be 12, 13, 14 times,</p> <p>18 approximately.</p> <p>19 Q. Per month?</p> <p>20 A. No. Before the accident.</p> <p>21 Q. But 12 or 13 times per month before the</p> <p>22 accident?</p> <p>23 A. I'm talking about the number of times in total</p> <p>24 before the accident. So although I don't know exactly</p> <p>25 how many times, it would be over ten times</p>

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7 (Pages 22 to 25)

Eishin Yamaguchi

1 Q. Okay Understood
 2 In February of 2000, was ANA flying to
 3 San Francisco airport, flying 777s to San Francisco?

4 A. Yes.

5 Q. And I take it it's done so regularly up to
 6 today? They continue to fly that route to and from
 7 San Francisco?

8 A. Yes.

9 Q. Other than the accident of October 7 of '03,
 10 have you ever been involved in any accidents or
 11 incidents with regard to any aviation matter?

12 A. No.

13 Q. To your knowledge, has Mr. Nishiguchi or Usui
 14 been involved in any accidents or incidents other than
 15 the one of October 7, '03?

16 A. Not as far as I know

17 Q. From February of 2000 to October 7 of '03, can
 18 you tell me how many hours you have as the pilot in
 19 command of a 777 aircraft?

20 A. I don't have the record here, so I do not know
 21 the accurate number of hours, but I believe it would be
 22 about 4,000 several hundred hours.

23 Q. Okay And of those hours that you accrued
 24 between February 2000 and October 7, 2003 in a 777, how
 25 many would have been as the flying pilot? Any idea?

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1 MR. TURNER: I just want to add that I want to
 2 caution and remind the witness that he is not to guess.

3 THE WITNESS: I cannot recall accurately,
 4 therefore, I cannot answer

5 MR. TORPEY: Q. Okay. So you have no idea
 6 how many hours from 1 to 4,000 you spent as the flying
 7 pilot of a 777 aircraft between February 2000 and
 8 October 7, 2003; true statement?

9 MR. TURNER: Objection as to form and
 10 foundation.

11 THE WITNESS: When I talked about the
 12 approximate 4,000 hours, I was talking about the hours
 13 that are relevant after I became captain. If it is only
 14 up to the date of 2003, October 7, there will not be as
 15 many as 4,000 hours

16 MR. TORPEY: Q. Let me do this so we're very
 17 clear, Mr. Yamaguchi.

18 In February 2000 when you became a captain for
 19 an ANA 777 aircraft, going forward to October 7, 2003,
 20 the date of the accident involved here, please tell me
 21 two things. Number 1, what are your total hours as
 22 pilot in command of a 777 aircraft?

23 MR. TURNER: One question at a time.

24 MR. TORPEY: I haven't finished my question.

25 Q. Number 2, of those hours, how many were as the

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1 A. Are you talking about the total of my flight
 2 time?
 3 Q. Yes. If I understand you, Mr. Yamaguchi, you
 4 said that prior to the date of this accident you had
 5 4,000-plus hours as pilot in command of a 777. And what
 6 I'm asking, of those 4,000 approximate hours, how many
 7 of those were with you as the flying pilot,
 8 approximately?

9 A. I don't have the document at hand, so I cannot
 10 say.

11 Q. Would your best recollection be that perhaps
 12 half of those hours or something more or less than half
 13 as pilot flying?

14 A. I'm trying to ascertain the meaning of the
 15 term flying pilot. If I'm onboard as the responsible
 16 person, I may be flying the aircraft, so I would be the
 17 pilot. But sometimes the copilot would be flying the
 18 aircraft, in which case I would not be the flying pilot.

19 The only record that remains would be the PIC,
 20 in other words, of me as the person responsible. So
 21 there would be no record about the flying time.

22 Q. Regardless of there being a record,
 23 Mr. Yamaguchi, do you have a recollection of about how
 24 many of those approximate 4,000 hours that you were
 25 pilot in command that you were also the flying pilot?

1 flying pilot.

2 MR. TURNER: I object as to form. Please ask
 3 the witness one question at a time, Mr. Torpey. I want
 4 the record clear that I'm objecting to Mr. Torpey and
 5 his courtesy in asking these two questions knowing it
 6 is improper form. But I'm going to let the witness
 7 answer it.

8 MR. TORPEY: And I would ask that you raise
 9 objections, not speaking objections. I don't want to
 10 get into a dialogue here, so let's stop that right now.

11 MR. TURNER: You know you're very wrong in
 12 asking two questions, and it was very discourteous for
 13 you to insist upon doing it.

14 MR. TORPEY: You can make an objection to
 15 form, but you can't do what you just did, and if it
 16 continues, we're going to have to ask the court to
 17 instruct you to follow the rules.

18 MR. TURNER: You know you're 100 percent
 19 wrong. Please stop that right now.

20 MR. TORPEY: Yeah. Let's stop and read back
 21 the question, and let's continue with the deposition.

22 THE INTERPRETER: The interpreter will repeat
 23 the question.

24 THE WITNESS: I do not have a record at hand,
 25 so that I cannot say what the hours are accurately. I

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8 (Pages 26 to 29)

Eishin Yamaguchi

<p>1 know the approximate total time, but I am unable to say 2 how much of that time was as a flying pilot. 3 MR TORPEY: Q And even if you had the 4 records, which I assume you're talking about your pilot 5 logbooks? 6 A I do not keep the time personally. The 7 company does that. 8 Q Okay. What you're telling me though is that 9 even the company records would not reflect how many of 10 the total hours you have accrued as pilot in command 11 between February 2000 and October 7, 2003, involved you 12 as the flying pilot; correct? 13 A Yes. 14 Q And finally, Mr. Yamaguchi, what is your best 15 recollection of the total number of hours you have as 16 the pilot in command of a 777 between February 2000 and 17 October 7, 2003? 18 A I do not know the accurate number of hours, 19 but I would think that it would be around 2,000 hours 20 Q Have you at any time been subject to any kind 21 of disciplinary action by any government authority 22 and/or ANA relative to your performance as a pilot? 23 A After the accident, my work was suspended for 24 a certain time period. 25 Q How long was -- let me. You say your work was</p>	<p>1 did you resume the identical duties? Did anything 2 change? 3 A No It was the same. 4 Q Who determined -- strike that. 5 On October 7, 2003, with regard to the flight 6 where the accident occurred, was it your decision to 7 designate your first officer to be the flying pilot that 8 day? 9 A Yes 10 Q What was the reason that you chose not to be 11 the flying pilot that day? 12 A There was no reason or limitation for the 13 copilot not to operate the aircraft 14 Q And when you came in from Japan on the flight 15 immediately before the departure flight where this 16 accident occurred, did you fly inbound with the same 17 crew members that you were flying back to Japan with? 18 A Yes I was in the deadhead, in other words, 19 the passenger compartment 20 Q And was Mr. Nishiguchi part of the flight crew 21 for that inbound flight? 22 A Yes. 23 Q How about Mr. Usui? 24 A He too. 25 Q And do you know what role they played, in</p>
<p>Page 30</p> <p>1 suspended. ANA suspended you from further piloting for 2 a period of time after this accident? 3 A Yes. 4 Q And the suspension was because of the accident 5 at San Francisco? 6 A Yes. 7 Q And how long was your suspension? 8 A About two weeks. 9 Q Were you paid during those two weeks? 10 A Yes. I was being paid. 11 Q Were the other two pilots that were with you 12 on October 7, 2003, also suspended? Do you know? 13 A I don't know. 14 Q What was the reason you were told you were 15 being suspended? 16 A I do not recall accurately. 17 Q Was there ever any type of reprimand either 18 written or verbal ever given to you by ANA relevant to 19 the October 7, 2003, accident? 20 A No, I was not. 21 Q Are you aware of whether there was any 22 reprimand issued to the other two pilots that were with 23 you? 24 A I do not know if they were reprimanded or not. 25 Q When you went back to work after two weeks,</p>	<p>Page 32</p> <p>1 other words, who was the pilot in command and who was 2 the flying pilot on that inbound flight? 3 A Mr. Usui was the pilot in command, but I don't 4 know which of the two people was the flying pilot 5 Q And it was the same aircraft you flew in and 6 out of or were going to fly out of that day that? 7 A I do not know. 8 Q Let me show you what we marked as Exhibit 1 if 9 you could -- our court reporter has that. 10 (Whereupon, Exhibit 1 was marked for 11 identification) 12 MR TORPEY: Q That's the deposition notice 13 that was dated November 19. Did you read that notice at 14 any time prior to today? 15 A I was told that there was this document, but I 16 have not read it with accuracy. 17 Q Prior to today, has anyone asked you whether 18 you objected to producing any documentation that ANA has 19 with regard to your employment or piloting, training, 20 things of that nature? Has anybody asked you whether 21 you would object to that? 22 A No. 23 Q Do you have a problem with us getting from ANA 24 your records with regard to your -- nonfinancial 25 records, but records regarding your training,</p>

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Eishin Yamaguchi

<p>1 employment, certifications, hours flown, any problem 2 with us getting your aviation-related records from ANA? 3 A. That is not up to me. It is something for the 4 company to decide. 5 Q. If the company chose to give them to us, 6 you're fine with their decision? 7 A. Are personal information included? 8 Q. No financial information is included 9 Strictly regarding your aviation experience, training, 10 hours, work history, not your personal -- for example, 11 personal medical, personal financial information. No, 12 none of that. 13 A. Yes. 14 Q. Do you know what an operations manual is? Are 15 you familiar with that term? 16 A. Yes. 17 Q. What is an operations manual? 18 A. It is a manual that explains how to do our 19 work. 20 Q. Okay. It's an ANA document; correct? 21 A. Yes 22 Q. It sort of is the outline, if you will, of how 23 the company and its employees are expected to perform 24 their duties including with regard to the operation of 25 ANA aircraft; correct?</p>	<p>1 the other is HF, and there are three VHF and two HF 2 onboard. 3 Q. I'm sorry. There were two -- what did you 4 say? 5 A. HF. 6 Q. With regard to the 777 you were in on the day 7 of this accident, was there anything different or unique 8 about that? Or basically was it just like all the other 9 777s you've been in for ANA? 10 A. It was the same. 11 Q. Now, with regard to the VHF radios, for what 12 purpose would you use those? 13 A. It is used for communication with ATC or the 14 company radio. Also to send -- also for data 15 communication. 16 Q. Okay. How about the HF? 17 A. HF is used to communicate with the controllers 18 in areas that the VHF would not reach. 19 CHECK INTERPRETER: For example, over the 20 ocean. 21 THE INTERPRETER: For example, over the ocean. 22 MR. TORPEY: Q. With regard to the -- you say 23 there are three separate VHF radios onboard the 777? 24 A. Yes. Three. 25 Q. And could they be turned to different</p>
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<p>1 A. Yes. 2 Q. And it's required that that manual be kept 3 with the aircraft? 4 A. Yes. 5 Q. Do you know how many 777s ANA currently has in 6 its fleet? 7 A. I do not have an accurate recollection. Maybe 8 about 30. 9 Q. Are they the same model or configuration? And 10 I'm not talking about configuration, but in terms of the 11 cockpit or equipment? 12 A. Yes. 13 Q. Was that about the size of the fleet back on 14 October 7 of '03? 15 A. If we are going to compare with that time 16 period, I would say that there is twice as many today. 17 Q. Okay. But as far as the equipment onboard, 18 and again, in the cockpit they're basically the same 19 today as back in '03? 20 A. Yes. 21 Q. How many radios are there onboard an ANA 777? 22 And for clarity, when I say radios, I mean radios that 23 you would use to talk to people outside of the aircraft, 24 for example, air traffic control. 25 A. There are two types of radios. One is VHF,</p>	<p>1 frequencies simultaneously? 2 A. Yes. 3 Q. Would that typically be the protocol that was 4 followed by ANA that there would be three radios on 5 three different frequencies, or would they be tuned to 6 the same frequency. What would routinely be the 7 protocol? And we're just talking about the VHF radios. 8 A. Ordinarily or typically, one VHF is used to 9 communicate with ATC. The second one is used to 10 communicate with the company or is set for guard 11 frequency, and the third one is used for data 12 communication. 13 Q. All right. Let me make sure I understand. 14 The first radio is used for air traffic control 15 communication; is that correct? 16 MR. TURNER: Can I have that question read 17 back please in English. 18 (Record read by the reporter.) 19 MR. TURNER: You mean the first VHF? 20 MR. TORPEY: Yeah. I'll restate the question. 21 Q. I'm only talking now, Mr. Yamaguchi, about VHF 22 radios. I'm not talking about HF. We'll do that 23 separately. 24 If I understand you, there are three VHF 25 radios, and one of the three is dedicated for flight</p>
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10 (Pages 34 to 37)

Eishin Yamaguchi

<p>1 deck communications with air traffic control; is that 2 correct? 3 A Yes. 4 Q. The second VHF radio you said is used for 5 communicating with the company or for the guard 6 frequency. When you say the company, are you talking 7 about communications between the flight deck and ANA? 8 A Yes. 9 Q. What do you mean by the guard frequency? 10 A. If there should be any failure in the VHF that 11 communicates with ATC, then the instruction would be 12 given by that special frequency. 13 Q. So you leave this second radio, as we're 14 calling it, on a frequency that allows you to 15 communicate during operation of the flight with 16 individuals at ANA; is that correct? 17 A. It depends on where the aircraft is. If it is 18 close to land, then it would be at a frequency setting 19 that allows communication with the company. If the 20 aircraft is far away or over the ocean, then it would be 21 at guard frequency or a frequency that allows 22 communication between aircraft to aircraft. 23 Q. Okay. And if the aircraft was on the ground, 24 it would be tuned to the frequency that allows you to 25 communicate with ANA; correct?</p>	<p>1 of questions. 2 Q. So back on October 7 of '03, if you wanted to 3 communicate with air traffic control, you would have to 4 switch to a different frequency on the VHF radio than 5 you would if you wanted to talk to United ramp control; 6 correct? 7 A. Since the other party that we communicate is 8 different, naturally the frequency would have to be 9 changed. 10 Q. So you use the -- can we call the one VHF 11 radio as the dedicated radio to talk to ATC or United 12 ground on the respected frequencies? In other words, 13 you use the same radio to do both functions from; 14 correct? 15 MR. TURNER: Objection as to form and 16 foundation. 17 THE WITNESS: I'd like the question again. 18 MR. TORPEY: Q. I'll rephrase it, 19 Mr. Yamaguchi. 20 Back on October 7 of '03, as you've indicated, 21 there were three VHF radios in the aircraft as you were 22 taxiing from the gate towards your intended departure; 23 correct? 24 A. Yes. 25 Q. And was one of the three VHF radios tuned to a</p>
<p>1 A Yes. 2 Q. And then the third VHF radio you said is for 3 data. Explain what you mean by that. 4 A. On land, it is set for data communication, but 5 ordinarily in the air, it is at guard frequency. 6 Q. What kinds of data would you get with that 7 third radio when it was on the ground receiving data? 8 A. The representative data would be weather 9 related to the flight, weight and balance, company 10 messages. 11 Q. So of the three radios, only one would be used 12 for purposes of communicating with, as you said, ATC. 13 Would that be the same radio that would be used for 14 purposes of contacting, for example, United ramp control 15 at San Francisco? 16 A. Yes. 17 Q. Now, when I used -- let me ask you, when you 18 use the term air traffic control, are you referring to, 19 for example, at San Francisco the FAA ground or FAA air 20 traffic controllers? 21 A. Yes. 22 MR. TURNER: Mr. Torpey, would this be a good 23 time to take a break. We've been going for about an 24 hour and a half without a break. 25 MR. TORPEY: I'm almost done with this couple</p>	<p>1 frequency so that it was dedicated to getting data as 2 you've described? 3 A. Yes. 4 Q. And up to the point where the collision 5 occurred on October 7, 2003, was that radio still tuned 6 and receiving data? 7 A. It is already four years since then, so I do 8 not have an accurate recollection about that. 9 Q. Do you have any -- would it be standard 10 protocol, Mr. Yamaguchi, that back on October 7, 2003, 11 you would have changed the frequency on that radio that 12 you were receiving data while you were still on the 13 ground? 14 THE INTERPRETER: I would like the question 15 again, please. 16 (Record read by the reporter.) 17 MR. TORPEY: Let me rephrase it. 18 CHECK INTERPRETER: When you say protocol -- 19 MR. TORPEY: Q. I'll withdraw the question. 20 I'll ask you a new question. 21 With regard to -- we'll call it radio 3 -- 22 that you indicated would have been tuned to receiving 23 data including weather briefings and other important 24 information, would it be fair to say, Mr. Yamaguchi, 25 that prior to the impact and leading right up to the</p>

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11 (Pages 38 to 41)

Eishin Yamaguchi

1 impact, to the best of your knowledge, that radio
 2 remained tuned to the frequency that allowed it to receive data?

4 Is that a fair statement?

5 A. Are you inquiring if we were using that radio to obtain data?

7 Q. Mr. Yamaguchi, you indicated in earlier
 8 testimony there were three VHF radios onboard your
 9 aircraft on October 7, 2003. You further testified that
 10 one of those three radios was used for receiving data,
 11 which included weather briefing, weight and balance, and
 12 other important information.

13 Is that a true characterization of your
 14 testimony, sir?

15 A. Yes.

16 Q. To the best of your knowledge, Mr. Yamaguchi,
 17 at any time up to the impact on October 7, 2003, did any
 18 member of your crew change the frequency on that radio
 19 so that it was doing something other than receiving
 20 data?

21 A. I didn't notice that. I don't understand why
 22 you are asking me such a question.

23 Q. Well, I appreciate you don't understand why
 24 I'm asking, Mr. Yamaguchi, but I want to make sure that
 25 I know your testimony in terms of what happened that

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1 earlier in the deposition about your suspension
 2 following this accident. Who was it who told you you
 3 were suspended?

4 A. I do not recall who. On the computer I found
 5 that my schedule had changed, so I came to the
 6 conclusion that it was a suspension.

7 Q. Well, when your schedule changed, were you --
 8 let me back up. Were you scheduled to fly the next day
 9 on October 8 of 2003?

10 A. No. After returning to Japan, there's always
 11 a three-day rest.

12 Q. But after the three-day rest, you were
 13 scheduled to resume your flying duties; correct?

14 A. After the three-day rest, there could be a
 15 further vacation or another type of work that is
 16 scheduled.

17 Q. Mr. Yamaguchi, the question specifically, sir,
 18 is on October 7, 2003, when were you next scheduled to
 19 fly for ANA right before this accident happened?

20 A. I do not recall.

21 Q. Well, you do recall that you were scheduled to
 22 fly and your schedule was changed and you considered
 23 that to be a suspension. You remember that; correct?

24 A. Yes.

25 Q. And who sent you that memo, the scheduling

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1 day.

2 So can we leave it by saying to the best of
 3 your knowledge, as of the time of the impact on
 4 October 7, 2003, one of the three radios, the VHF
 5 radios, at the time of impact was tuned to a frequency
 6 that allowed ANA's aircraft to receive data?

7 Is that a fair statement, sir?

8 A. That is my recollection. I do not recall that
 9 I adjusted that radio.

10 Q. And to your knowledge no one else did either;
 11 correct?

12 A. I didn't notice it.

13 Q. Okay. Let me ask you real quick, and then
 14 we'll break --

15 A. I'd like to take a break.

16 MR. TORPEY: Okay. Certainly, we'll take a
 17 break.

18 THE VIDEOGRAPHER: This concludes Videotape 2
 19 in the deposition of Eishin Yamaguchi. Going off the
 20 record. The time on the monitor is 11:40 a.m.

21 (Recess taken.)

22 THE VIDEOGRAPHER: Here begins Videotape 1 of
 23 the deposition of Eishin Yamaguchi. Coming back on the
 24 record. The time on the monitor is 11:54.

25 MR. TORPEY: Q. Mr. Yamaguchi, we talked

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1 change memo that you considered a suspension?

2 MR. TURNER: Objection as to form and
 3 foundation.

4 THE WITNESS: The schedule on the computer was
 5 different, but I do not know who instructed that.

6 MR. TORPEY: Q. Did it say anything other
 7 than a -- showing a revised schedule? In other words,
 8 did it give information as to why it was being changed?

9 A. That wasn't stated.

10 Q. Did you ask anyone about that scheduling
 11 change?

12 A. No. I did not because I thought it was
 13 natural for there to be a rest since it was right after
 14 an accident.

15 Q. Did you have to get any training that you
 16 would not otherwise have had to get as a result of this
 17 accident?

18 A. There was no special training, but together
 19 with Mr. Nishiguchi we made one round-trip domestically
 20 and also one round-trip between Narita and
 21 San Francisco.

22 Q. And what was the purpose of that trip?

23 A. I do not know.

24 Q. Did you have to get instruction or take any
 25 kind of a test during that trip?

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12 (Pages 42 to 45)

Eishin Yamaguchi

1 A No.	1 October 7, 2003, on the aircraft that day; correct?
2 Q. Are you aware of any corrective action	2 A Well, each individual had one
3 undertaken by ANA as a result of the October 7, 2003	3 Q. Does that answer to my question, yes, there
4 accident to preclude such an accident from happening in	4 was one on the aircraft that day?
5 the future?	5 A Yes
6 A Yes	6 Q. And are you familiar with the term pilot
7 Q. And what corrective action was taken?	7 logbooks? Have you ever heard that term used before?
8 A The accident facts were reported to crew	8 A Yes
9 members and also there is a chart that we use and a	9 Q. What does that mean to you?
10 warning information was noted on the chart.	10 A It is a personal flight log
11 Q. And where is this chart and warning kept?	11 Q. And what kind of information do you understand
12 A There is a route manual, and it is written on	12 is logged in pilot logbooks?
13 the route manual	13 A Information such as the flight times,
14 Q. Is that the operations manual?	14 departure, IMC, time, and nighttime, and the number of
15 A. No. It's a separate thing.	15 arrivals.
16 Q. And it's called the route manual?	16 Q. It would have the number of hours flown too;
17 A. Yes.	17 correct?
18 Q. And is that kept in the aircraft?	18 A. Yes.
19 A. Each individual has one.	19 Q. And do you as a pilot for ANA have something
20 Q. So every pilot has their own route manual?	20 that would be, whatever you call it, similar to a pilot
21 A. By own, your term own, do you mean	21 logbook?
22 individually?	22 A. I do not have one.
23 Q. Well, if you wanted to look at the route	23 Q. Would ANA have one?
24 manual, where would you go to get it?	24 A. Yes, that's right.
25 A. And who is doing the looking, me or you?	25 Q. And would that be a document that you would

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1 Q. Mr Yamaguchi, let me ask you again. If you	1 have had on the aircraft on October 7 of 2003?
2 wanted to go and look at the route manual -- I'll	2 A My understanding that the pilot logbook is a
3 rephrase it.	3 personal record. It is different from the journey log,
4 Would ANA have a copy of the route manual that	4 which is the logbook for the aircraft.
5 you've referred to?	5 Q. Okay. The journey log, is that required to be
6 A. The company has a copy, and also the same copy	6 on the aircraft on October 7 of '03?
7 is distributed to each individual.	7 A. Yes.
8 Q. Okay. Now, what does the warning that you've	8 Q. Now, you indicated earlier that there was no
9 described as the corrective action following this	9 reason for the first officer not to be the flying pilot.
10 October 7, 2003 accident, what does that warning state?	10 Is there any reason that you could not or should not
11 A. It is a warning that says that the aircraft	11 have been the flying pilot on October 7, 2003?
12 should not taxi if there is an aircraft pushing back	12 A. There was no reason.
13 from gate 1 or 2.	13 Q. Okay. Were you on any medication that
14 Q. Is that a -- this route manual, is that a	14 precluded you from being the flying pilot that day?
15 route manual that had existed before October 7, '03?	15 A. No. I was not on medication
16 A. The route manual itself existed	16 Q. Did you take any type of alcohol or drugs of
17 Q. Okay. And it obviously was revised with these	17 any kind within, say, 12 hours of departure on October 7
18 corrective actions that you've described; correct?	18 of '03?
19 A. Yes.	19 A. No.
20 Q. And is that a publication that's required to	20 MR. TORPEY: You know, Marshall, we'd like to
21 be kept on the aircraft itself, the route manual?	21 look at the document. If you're producing documents,
22 A. It is a publication that is not required to be	22 we'd like to have a chance to look at those?
23 onboard, but each individual should bring one in.	23 MR. TURNER: Do you have a protective order
24 Q. So at the time of this accident, there was at	24 pursuant to the judge's order?
25 least one copy of the route manual as it existed on	25 MR. TORPEY: Well, the judge's order does not

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13 (Pages 46 to 49)

Eishin Yamaguchi

1 give a deadline by which I have to do that, and I've
 2 already told you, and I'm telling you again, that we
 3 will make this retroactive. So if you are not going to
 4 hand them over at this point, I'm going to assume you're
 5 not going to produce them and we won't have a chance to
 6 even look at them in this deposition.

7 So now is the chance I want to take a look
 8 at them

9 MR. TURNER: First, I would like to find out
 10 when you intend, pursuant to the judge's order of
 11 November 19 and your own statement to me of November 13,
 12 that you are going to make the changes the judge ordered
 13 should be made and give us a copy of the confidentiality
 14 order I don't understand what's taking so long.

15 MR. TORPEY: You recall that there was a long
 16 holiday weekend, perhaps you forgot that, and here we
 17 are and I'm telling you again that I will make it
 18 retroactive. So rather than waste any more time talking
 19 about it, either produce the documents -- we agree on
 20 the record that it will be retroactive -- or don't
 21 produce them. But I'm not going to ask you, again
 22 Marshall, I'm going to assume whatever -- that whatever
 23 you do now is what you're going to do for the rest of
 24 these three depositions

25 MR. TURNER: I do have them here, and it's my

1 Now, it's here, and I want to make it a
 2 hundred percent clear on the record that you are
 3 agreeing that the documents that I give you will be
 4 subject to the order as expressed by the judge in the
 5 transcript of the hearing on November 13, 2007

6 MR. TORPEY: Marshall, I have said yes to that
 7 question several times today and in a letter a week ago
 8 Now, please hand over documents and let's stop wasting
 9 my time and yours and the witness's. We wanted to see
 10 the documents. Can we see those now, please

11 MR. TURNER: As far as wasting of time, you're
 12 the one that has wasted virtually two weeks by now on
 13 this confidentiality order, not to mention the fact that
 14 almost every correction that I had asked you to make
 15 almost two months ago were the corrections that the
 16 judge ordered at the hearing on November 13. And we
 17 could have had this done months ago not just at
 18 10:00 o'clock this morning

19 MR. TORPEY: Are you giving me the documents,
 20 Marshall, or not because I want to move on with this
 21 deposition? I'm not going to discuss it further with
 22 you

23 MR. TURNER: Mr. Yamaguchi has his
 24 certificates that you had requested be produced.
 25 There's a copy for you, and I'm giving Mr. Yamaguchi a

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1 intent to give them to you. However, we did have some
 2 disagreement as to what the content should be. The
 3 judge generally agreed to me, generally agreed you were
 4 going to get it to me right away.

5 The judge ordered you should get it to me, and
 6 I want to note what the content is going to be before I
 7 turn it over to you, the documents over to you, pursuant
 8 to what you say you will agree to. Are the conditions
 9 that you're going to accept, the conditions that the
 10 judge expressed during the hearing on November 13

11 MR. TORPEY: Well, Marshall, of course I'm
 12 going to follow the judge's orders. That's why we had
 13 the hearing. This has already been decided, so I'm not
 14 going to waste any more time discussing it today.

15 I want to see the documents. They were
 16 supposed to be produced at 10:00 a.m. It's now
 17 afternoon. I want to see the documents now. Either
 18 decide to give it to me or don't, but at this point I'm
 19 going to continue asking questions --

20 MR. TURNER: I want it clear on the record --
 21 and don't give me this supposed to be produced at
 22 10:00 o'clock. I've had the documents here. I've told
 23 you I've had the documents here, and I've been asking
 24 you where the order is that the judge had ordered you to
 25 give to us well over a week ago.

1 copy

2 MR. TORPEY: Are you producing any other
 3 documents, Marshall? I want to see every document
 4 you're producing in response to my notice at this point

5 MR. TURNER: We are producing the training
 6 records that Mr. Yamaguchi had discussed with the legal
 7 department of ANA and requested that the last column and
 8 the third from the last column be blacked out, redacted
 9 There's a copy of Mr. Yamaguchi's training record for
 10 him and for you.

11 MR. TORPEY: Is that it?

12 MR. TURNER: Mr. Yamaguchi with regard to the
 13 accident investigation file had his statements to the
 14 NTSB and United Airlines, statements to the NTSB all of
 15 which have been produced and in everyone's possession
 16 for years.

17 And as well the Jeppesen chart for the
 18 San Francisco International that was in effect on the
 19 day of the accident. And this is not Mr. Yamaguchi's
 20 document, but he hasn't had time to look for this since
 21 he didn't see your most recent document request until
 22 yesterday.

23 And this is a section that he got from the
 24 legal department at ANA of the operations manual of ANA
 25 that covers the portion of the flight on the day of the

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<p>1 accident, which is in effect now, many of which pages 2 were in effect on October 7, 2003, but some of them have 3 been altered and revised 4 What I'm handing you now is a current copy. 5 MR. TORPEY: Well, I don't have it. Why don't 6 you hand it to me. 7 MR. TURNER: One second. Just looking to see 8 if I have an extra copy for you. Maybe we can have the 9 court reporter make a copy. I think I just have one 10 copy. So let me identify it as operations manual 11 section 2.3 through 2.3 -- 2-3-3, and supplement 12 pages 7S1 through 7S6-7. I don't seem to have an extra 13 copy, but we'll get a copy from the court reporter. 14 MR. TORPEY: Okay. Is that everything you're 15 producing? 16 MR. TURNER: Yes. 17 MR. TORPEY: Why don't we mark this as one 18 exhibit. This could be Exhibit 2. 19 (Whereupon, Exhibit 2 was marked for 20 identification.) 21 MR. TORPEY: Just, for the record, I have 22 marked as Exhibit 2 all of the documents that Mr. Turner 23 has just turned over in response to our deposition 24 notice. 25 So I will at some point, Mr. Yamaguchi, ask</p>	Page 54	<p>1 whatever necessary information that the company wants to 2 send us. 3 Q. Would it also be things like maintenance and 4 mechanical issues? 5 A. It would be rare for that type of information 6 to be communicated to us when we are on land, but 7 sometimes the aircraft mechanical issue may be 8 communicated by us to the company. 9 Q. So you agree there is a need for having a 10 dedicated VHF radio with its frequency tuned to ANA 11 while your aircraft is on the ground; correct? 12 A. Not dedicated. For example, we call it left, 13 right, and center radios. As a custom, we use the left 14 one for communication with ATC, the right one for 15 communication with the company, and the center one for 16 data communication, but we can use them for different 17 communications. 18 Q. Okay. To the best of your knowledge, 19 Mr. Yamaguchi, as the pilot in command of the aircraft 20 on October 7, 2003, at the time of the impact with the 21 United aircraft, were your radios, the VHF radios, the 22 left tuned to a frequency so you could talk to air 23 traffic control, the right tuned to a frequency so you 24 were talking or could talk to ANA, and the center tuned 25 to a frequency to allow you to receive data?</p>	Page 56
<p>1 you some questions about those, but I want the record to 2 be clear that that's the totality of what I was given. 3 And I understand that's the totality of all that I'll be 4 given. 5 MR. TURNER: And one second. I want it 6 absolutely clear that you are agreeing that every page 7 that I've just handed to you will be marked confidential 8 and subject to the confidentiality agreement when we 9 agree to it, when you provide it to me as ordered by the 10 judge and as the judge orders. 11 MR. TORPEY: Didn't I just say that, Marshall 12 Once again, I'll say, yes, absolutely. I agree, as I 13 did previously, to make these retroactively subject to 14 the protective order. 15 Q. Now, apologize, Mr. Yamaguchi, for the delay. 16 I'd like to get back to the VHF radio that we were 17 talking about, and I want to try to go through this 18 quickly because we still have a lot to cover. 19 The second of the three VHF radios you 20 indicated would be used for communications with ANA, 21 what kinds of things would you be communicating with ANA 22 about when the aircraft is on the ground, for example, 23 at San Francisco International? 24 A. For example, if there is a weight and balance 25 adjustment or if there are specific new alerts or</p>	Page 55	<p>1 A. I did not see those three radios just before 2 and after the impact. It is certain that the left was 3 tuned to communicate with ATC, but I do not have an 4 accurate recollection about the other two. 5 Q. Well, Mr. Yamaguchi, as of the time of the 6 impact, if the normal routine was being followed by 7 yourself and your crew members, you agree with me that 8 the right-hand radio would be tuned to a frequency 9 allowing you to talk to ANA and the center would be 10 tuned to a frequency to allow you to receive data. 11 Is that a correct statement, sir? 12 A. Ordinarily that is so, but I do not have a 13 recollection as to whether they were actually so at that 14 time. 15 Q. Well, you have no reason to believe that they 16 were not -- let me rephrase it. 17 Although you don't have a specific 18 recollection today, would it be fair to say that you 19 have no information whatsoever to lead you to believe 20 that at the time of the impact the VHF radios were not 21 set as you would routinely set them on the ground? 22 THE INTERPRETER: The interpreter will repeat 23 the question in Japanese. 24 THE WITNESS: There was no necessity to change 25 them, but I cannot confirm that the right was set for</p>	Page 57

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1 the company and the center was set to data
 2 MR. TORPEY: Q. Okay. And if you and your
 3 crew followed ANA's normal custom and practice, at the
 4 time of the impact, the center would be set to receive
 5 data, the right would be set to talk to ANA, and the
 6 left was set to talk to air traffic control; correct?
 7 A. I am repeating myself, but it is certain that
 8 the left was used for communication with ATC. But I did
 9 not see the right and the center, so I do not know
 10 clearly.
 11 Q. With all due respect, Mr. Yamaguchi, that was
 12 not the question. So I want to have the question read
 13 back. Please answer my question, sir.
 14 MR. TURNER: With all due respect, your
 15 question has been asked half a dozen times already --
 16 MR. TORPEY: That's not an objection under the
 17 federal rules.
 18 MR. TURNER: And you start asking the same
 19 question ten times, I'm going to speak up.
 20 MR. TORPEY: If you want to move for a
 21 protective order and terminate the deposition. If you
 22 want to get the judge on the line, you can do that.
 23 What you can't do and I won't stand for is for you to
 24 give coaching objections. That's what I won't do. You
 25 can laugh at me, Marshall.

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1 this accident? Was it you or the flying pilot?
 2 A. It was me.
 3 Q. And as the pilot that was communicating, if
 4 there was going to be a frequency change, would you be
 5 the one that would make that change?
 6 A. Yes.
 7 Q. And as the pilot in command of that flight on
 8 October 7, if the first officer or flying pilot wanted
 9 to make a change in the frequency of any of the three
 10 VHF radios, would they let you know that?
 11 A. Yes, I think so.
 12 Q. And as you sit here today, do you recall your
 13 first officer ever asking you if he could change the
 14 frequency on the center or the right radio so that they
 15 would be tuned to frequencies other than what they would
 16 routinely be tuned to?
 17 A. No, he did not.
 18 Q. All right. Let me ask you in terms of routing
 19 the day of -- let me back up.
 20 With regard to routing from SFO to Japan
 21 airspace, are there different altitudes, for example,
 22 that can be assigned?
 23 A. Do you mean at the time of departure?
 24 Q. Let me rephrase it for you, Mr. Yamaguchi.
 25 When you, as the PIC, and the communicating

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1 MR. TURNER: It is a joke, the way you're
 2 behaving. That is a joke.
 3 (Record read by the reporter.)
 4 THE WITNESS: As a generality that is the
 5 case, but whether they were actually so or not, I can't
 6 say because I did not check before and after the impact.
 7 MR. TORPEY: Q. Mr. Yamaguchi, I'm not asking
 8 you, sir, whether you can actually confirm. I'm
 9 strictly asking you, as the question indicates, about
 10 custom and routine. Do you understand that, sir?
 11 A. The general way we use them were -- that were
 12 as you say.
 13 Q. Okay. And do you have -- strike that.
 14 Is there any reason on October 7, 2003, that
 15 you're aware of that that general custom or routine with
 16 regard to the settings of the VHF radios was not
 17 followed?
 18 A. I do not recall clearly although I don't think
 19 there was any.
 20 Q. If the flying -- strike that.
 21 The observer pilot would not for any reason
 22 change the frequency on one of these radios any time up
 23 to the time of impact; correct?
 24 A. Not ordinarily.
 25 Q. Who was doing the communicating on the day of

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1 pilot talk to air traffic control, did you request any
 2 assignment in terms of, you know, what routing you would
 3 be assigned for your trip between SFO and Narita, the
 4 day of this accident?
 5 A. Yes.
 6 Q. And do you have a preferred route that, if
 7 it's available, you like to get?
 8 A. I do not recall clearly if we received
 9 clearance with regards to the routing that we requested,
 10 but usually there is no change in the routing.
 11 Q. When I say routing, I guess, can you ask to be
 12 assigned to particular altitudes, for example?
 13 A. Altitude is requested by the company to the
 14 ATC authority in advance.
 15 Q. Do you remember the local time of day that
 16 this collision occurred?
 17 A. Not accurately.
 18 Q. Was it sometime around noon local Pacific
 19 time?
 20 A. I think it was in the morning.
 21 Q. Okay. I know you're not sure, but what's your
 22 best estimate of the time locally, Pacific time, that
 23 the collision occurred?
 24 A. The departure time was around 11:00 a.m., so
 25 it was around 20 minutes later.

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16 (Pages 58 to 61)

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<p>1 Q. Do you recall if you left the gate on time? 2 A. I do not recall 3 Q. Okay. There are other airlines besides ANA 4 that fly out of that terminal, that international 5 terminal that your aircraft departed from; correct? 6 A. Yes. 7 Q. And were you aware on October 7, 2003, that 8 there were other airlines flying scheduled flights that 9 morning at around the same time of your flight to Japan? 10 A. No, I was not aware 11 Q. So you felt that your flight was the only 12 flight of any airline going to Japan at around 13 11:00 o'clock in the morning that day? 14 A. That is not what I felt 15 Q. What was your understanding with regard to 16 other aircrafts, say, between 11:00 and 11:15 when you 17 were scheduled to depart from your gate? What was your 18 understanding on October 7, 2003, about other aircrafts 19 going to Japan departing at about the same time? 20 A. I don't know the specifics, but that is around 21 the time frame during which flights to Japan depart 22 Q. In the area where you departed from, the gates 23 and then the ramp area that this collision ultimately 24 occurred, at the time of the accident, was it a very 25 busy time of the day at that airport in that area, in</p>	<p>1 A. We receive clearance before departure, before 2 we start the engine 3 Q. Now, let's say, there are two or more 4 aircrafts that are scheduled to fly from San Francisco 5 to Japan airspace and they're both being pushed back 6 from their respective gates at around the same time. 7 How is it determined who is going to get 8 the -- what I'll call the more optimal altitude 9 assignments, if there's more than one aircraft competing 10 for the designated altitude? 11 A. I would not know that. 12 Q. Well, only one aircraft would be assigned to 13 one particular altitude at a time; correct? 14 A. There could be many cases, so I would not know 15 about that. 16 Q. Well, I guess, Mr Yamaguchi, if you knew 17 that, for example, United's aircraft or some other 18 aircraft was departing at about the same time as your 19 aircraft and was going to fly to Japan and only one of 20 you could get what would be considered the most fuel 21 efficient or optimal route, would you feel that the 22 person who made the first request to ATC would be the 23 aircraft more likely to get that assignment? In other 24 words, first come/first serve? Is that your 25 understanding of how the process works?</p>
<p style="text-align: center;">Page 62</p> <p>1 other words, a lot of arrivals and departures at that 2 time? 3 MR TURNER: Objection as to form and 4 foundation. 5 THE WITNESS: Are you asking about the time or 6 the location? 7 MR. TORPEY: Q. At the location in the ramp 8 area including the gates and the adjacent ramp area, are 9 there a lot of flights that depart around the time your 10 flight was departing so that it's very congested, if you 11 will, with arrivals and departures in that area at that 12 time? 13 MR. TURNER: Objection as to form and 14 foundation 15 THE WITNESS: I do not recall clearly. 16 MR. TORPEY: Q. All right. Are some altitude 17 assignments for airspace between San Francisco and Japan 18 airspace better than others for purposes of fuel 19 efficiency, for example? 20 A. Yes. 21 Q. And when you're asking for clearance to taxi 22 and take off, do you request to be assigned to a 23 particular altitude that you believe would be the most 24 fuel efficient or for whatever reason you believe to be 25 the most optimal altitude?</p>	<p>1 A. No, I don't think that is -- would be the only 2 reason 3 Q. Well, that could be one of the reasons, the 4 first to ask for the optimal airspace may be the one 5 that gets it; correct? 6 A. That may be one of the reasons, but the routes 7 from the West Coast to Asia are not limited to just 8 San Francisco. 9 THE INTERPRETER: The interpreter will 10 restate 11 THE WITNESS: That may be one of the reasons, 12 but the routes from the West Coast to Asia is limited. 13 San Francisco is not the only airport. There is 14 Los Angeles airport as well as many other airports along 15 the West Coast from which the aircrafts depart. 16 So even if a certain aircraft made the request 17 first in San Francisco, it does not necessarily mean 18 that that aircraft would be assigned that optimal route. 19 MR. TORPEY: Q. ANA flies between Los Angeles 20 and Japan; correct? 21 A. Yes 22 Q. And I take it you also fly that route with the 23 777? 24 A. Yes. 25 MR. TURNER: Counsel, it's past 1:00 o'clock</p>

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17 (Pages 62 to 65)

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<p>1 It's way past time for lunch already. Let's break now.</p> <p>2 MR. TORPEY: We just took a break 45 minutes</p> <p>3 ago, and I'm happy to stop for lunch, but I'd like to --</p> <p>4 MR. TURNER: If you're in the middle of a</p> <p>5 question, then finish the question. Go right ahead.</p> <p>6 MR. TORPEY: Q. With regard to flights</p> <p>7 between Japan and LAX, does ANA fly those on a daily</p> <p>8 basis?</p> <p>9 A. Yes</p> <p>10 MR. TURNER: You finished that question?</p> <p>11 MR. TORPEY: Yeah. I guess we can take a</p> <p>12 break. You know, we've been going for about a little</p> <p>13 less than two and a half hours of testimony, so how long</p> <p>14 do you want to break for?</p> <p>15 MR. TURNER: An hour. We've been going for</p> <p>16 almost three hours of testimony.</p> <p>17 MR. TORPEY: No. We haven't.</p> <p>18 MR. TURNER: We had one break of about</p> <p>19 10 minutes, and it's well past break time, certainly for</p> <p>20 the witness, I expect for the translator and for the</p> <p>21 court reporter.</p> <p>22 MR. TORPEY: Testimony does not include a</p> <p>23 lawyer discussion, Marshall, so as far as I'm concerned,</p> <p>24 we've been here for a little less than two and a half</p> <p>25 hours of testimony. If you believe otherwise, we'll</p>	<p>1 question read back please, in English</p> <p>2 (Record read by the reporter)</p> <p>3 MR. TURNER: Objection as to form and</p> <p>4 foundation</p> <p>5 THE WITNESS: I do not understand what the</p> <p>6 specific situation is, but I have not been trained for</p> <p>7 the collision that took place or anything simulating it.</p> <p>8 MR. TORPEY: Q. Mr. Yamaguchi, so there's no</p> <p>9 misunderstanding here, even though you were pilot in</p> <p>10 command of the ANA 777 aircraft, at no time up to</p> <p>11 October 7, 2003, did you receive any training or</p> <p>12 instruction of any kind from any source with regard to</p> <p>13 what actions to take if you believe you are going to</p> <p>14 collide with other aircraft on the ground?</p> <p>15 A. Although I have not received the training,</p> <p>16 there are warnings given in a document with regards to</p> <p>17 similar incidents</p> <p>18 Q. What is the document you're referring to?</p> <p>19 What is it called?</p> <p>20 A. There is no special name. I do not recall the</p> <p>21 name.</p> <p>22 Q. Is that a document that ANA has?</p> <p>23 A. I think it was included in the -- in one of</p> <p>24 the documents related to a work log that I saw.</p> <p>25 Q. Let me ask you this way, Mr. Yamaguchi. In</p>
<p>Page 66</p> <p>1 just have to see how far this goes, but we'll break</p> <p>2 You request an hour break. We'll break for an hour.</p> <p>3 THE VIDEOGRAPHER: Should we go off the</p> <p>4 record?</p> <p>5 MR. TORPEY: Yeah.</p> <p>6 THE VIDEOGRAPHER: Going off the record. The</p> <p>7 time on the monitor is 1:01 p.m.</p> <p>8 (Noon recess taken)</p> <p>9 THE VIDEOGRAPHER: Coming back on the record.</p> <p>10 The time on the monitor is 1:59. Please begin.</p> <p>11 MR. TORPEY: Q. Mr. Yamaguchi, are you</p> <p>12 familiar with the term conflict resolution?</p> <p>13 A. No. I am not.</p> <p>14 Q. As a pilot for ANA, at any time were you</p> <p>15 trained by ANA or anyone else with regard to what to do</p> <p>16 when you or a member of your flight crew perceives that</p> <p>17 it might potentially collide with another aircraft?</p> <p>18 A. No.</p> <p>19 Q. So even to this day you have never received</p> <p>20 any training from any source or anyone with regard to</p> <p>21 what actions you should take in order to determine</p> <p>22 whether or not you're going to collide with another</p> <p>23 aircraft and, if so, what to do to resolve that</p> <p>24 potential collision hazard? Fair statement?</p> <p>25 MR. TURNER: I'm sorry. Can I have the</p>	<p>1 all your years of flying you have never heard anyone use</p> <p>2 the term conflict or conflict resolution; correct?</p> <p>3 A. That's right.</p> <p>4 Q. I want you to assume for purposes of my</p> <p>5 questions, Mr. Yamaguchi, that if your aircraft were</p> <p>6 taxiing and there's another aircraft a distance away and</p> <p>7 there's a potential that those two aircraft could</p> <p>8 collide, I want you to assume that that potential</p> <p>9 collision hazard is what I'm calling a conflict or</p> <p>10 potential conflict.</p> <p>11 Do you understand me?</p> <p>12 A. Yes.</p> <p>13 Q. For example, on the day of this accident,</p> <p>14 October 7, 2003, was there any written material that</p> <p>15 you're aware of that would have assisted you in</p> <p>16 determining, as you were taxiing towards the United</p> <p>17 aircraft prior to impact, to determine what you should</p> <p>18 do to decide whether or not there was a conflict and, if</p> <p>19 there was a conflict, what you should do to resolve it?</p> <p>20 THE VIDEOGRAPHER: Excuse me one moment.</p> <p>21 Madam Translator, the microphone is right underneath the</p> <p>22 pendant and it's hitting it, so if you could move it to</p> <p>23 the side.</p> <p>24 THE INTERPRETER: Should I lower it? My voice</p> <p>25 is large enough</p>

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<p>1 THE WITNESS: There's one question; right?</p> <p>2 MR TORPEY: Q Yes</p> <p>3 MR TURNER: I'm sorry Can I have that</p> <p>4 question read back then</p> <p>5 (Record read by the reporter)</p> <p>6 MR TURNER: Objection as to form</p> <p>7 THE WITNESS: I don't understand the question</p> <p>8 very well.</p> <p>9 MR. TORPEY: Q Do you think that ANA should</p> <p>10 have trained you and the other pilots in the cockpit of</p> <p>11 that aircraft that day on what to do if there is a</p> <p>12 potential collision hazard, such as the one you</p> <p>13 encountered the day of this accident?</p> <p>14 MR TURNER: Objection as to form</p> <p>15 THE WITNESS: In order to obtain my license, I</p> <p>16 have received Boeing's training, and there's no training</p> <p>17 limited to taxiing even at Boeing, so I have not</p> <p>18 received such a training</p> <p>19 MR. TORPEY: Q. So you've never received any</p> <p>20 conflict resolution training by Boeing or ANA or anyone</p> <p>21 else even to this date; correct?</p> <p>22 A. I have not received training.</p> <p>23 Q. Do you think that it would have been a good</p> <p>24 idea for you and your other crew members to have</p> <p>25 received conflict resolution training?</p>	<p>1 My question to you is, sir, if you wanted to</p> <p>2 get a copy of that, where would you go? Who would have</p> <p>3 it? And in what location would it be held?</p> <p>4 A The name is route manual.</p> <p>5 Q Is the operations manual that was marked</p> <p>6 Exhibit 2 -- you're welcome to look at this -- and it's</p> <p>7 dated July 1 of 2007, at least this generation is -- is</p> <p>8 the operations manual part of the training or training</p> <p>9 materials provided to ANA pilots?</p> <p>10 MR TURNER: Just for the record to be clear,</p> <p>11 Exhibit 2 contains more than just the operations manual</p> <p>12 section. I think it's only the first 10 or 12 pages or</p> <p>13 so.</p> <p>14 MR. TORPEY: Q. I'm only referencing the</p> <p>15 portion of the exhibit that's the operations manual</p> <p>16 A. We have a Japanese version, so we do not look</p> <p>17 at this. This is the English version for foreigners.</p> <p>18 Q. But the operations manual, even in Japanese,</p> <p>19 is that part of the required materials to be reviewed as</p> <p>20 part of training for ANA pilots?</p> <p>21 A. Yes.</p> <p>22 Q. Now, if you look at Exhibit 2, the operations</p> <p>23 manual, this is only a part of the manual. It's not the</p> <p>24 complete manual; correct?</p> <p>25 A. Yes, that's right.</p>
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<p>1 A. No, I do not.</p> <p>2 Q. Why do you think it was not necessary for you</p> <p>3 or the other crew members on or before October 7, 2003,</p> <p>4 to receive conflict resolution training?</p> <p>5 A. That accident entailed a special situation,</p> <p>6 and it is not possible to receive trainings for the</p> <p>7 various different special situations.</p> <p>8 Q. Well, I'm not asking you, Mr. Yamaguchi, if</p> <p>9 you should get training for every conceivable accident</p> <p>10 that could ever possibly happen.</p> <p>11 I'm only asking you whether you believe it</p> <p>12 would have been useful or advisable for ANA to have</p> <p>13 trained its pilots in conflict resolutions on or before</p> <p>14 the day of this accident? Conflict resolution</p> <p>15 generally.</p> <p>16 A I do not believe that such a special training</p> <p>17 is necessary.</p> <p>18 Q. Do you know if other airlines provide conflict</p> <p>19 resolution training to its pilots?</p> <p>20 A. I do not.</p> <p>21 Q. Okay Now, you mentioned earlier in the</p> <p>22 testimony there was some kind of a warning relating to</p> <p>23 collision hazards or potential collision hazards, and I</p> <p>24 asked you what document that was called. And I believe</p> <p>25 you said it didn't have a particular name.</p>	<p>1 Q. On the second page of Exhibit 2, it's talking</p> <p>2 about taxiing at item 2. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And it says, and I'll read it, I quote, the</p> <p>5 captain shall perform taxi in accordance with the</p> <p>6 following.</p> <p>7 Do you see that?</p> <p>8 A. I can see it, but since I have not compared</p> <p>9 this to what we use, I cannot really tell whether they</p> <p>10 are identical.</p> <p>11 Q. Well, assume for purposes of my questions that</p> <p>12 they are identical. On the day of the accident,</p> <p>13 October 7, 2003, you were the captain; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And the word shall, you understand that this</p> <p>16 is mandatory, not discretionary?</p> <p>17 A. Yes.</p> <p>18 Q. And on the day of this accident, the flying</p> <p>19 pilot that was taxiing was not yourself but actually the</p> <p>20 copilot; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know if on the day of this accident,</p> <p>23 October 7 of 2003, Mr Yamaguchi, whether that was the</p> <p>24 rule that was in effect at that time as well as July 1</p> <p>25 of 2007?</p>
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19 (Pages 70 to 73)

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<p>1 A. The manual is revised frequently, so I do not 2 know if the content was the same. 3 Q. If we assume, Mr. Yamaguchi, that it was the 4 same, then would you agree with me that you and not the 5 first officer should have been taxiing on the day of 6 this accident? 7 A. No, I do not agree. 8 Q. And why not? 9 A. I had the authority to allow the copilot to 10 operate the aircraft. There was no reason that I had to 11 do it myself. 12 Q. Well, if, in fact, on October 7, 2003, the 13 operations manual read as it does in Exhibit 2 that the 14 captain shall perform taxi, then you did not have the 15 authority to allow the first officer to perform the 16 taxi; correct? 17 A. No, that is not so. 18 Q. Why is it not so despite what it says there? 19 A. I believe that the interpretation is 20 different. 21 Q. In what respect? 22 A. The word captain on this document is not 23 limited to the captain, per se. It includes the concept 24 that the responsibility of the captain allows his giving 25 permission to the copilot to operate the aircraft.</p>	<p>1 that? 2 A. I cannot because I do not have a manual at 3 hand. 4 Q. So it would be in a portion of the operations 5 manual that is not included in the portion marked 6 Exhibit 2; correct? 7 A. Yes. 8 Q. Now, getting back to Exhibit 2, that portion 9 of the operations manual, after it says the captain 10 shall perform taxi in accordance with the following, 11 under item 2 it says, be observant of all obstacles 12 around him and taxiing speed is such that he may bring 13 his airplane to an immediate and complete stop 14 Do you see that? 15 A. Yes. 16 Q. Now, is the reason as you understand it why 17 that is in the operations manual -- strike that. Let me 18 rephrase it. 19 Is it your understanding that the reason the 20 captain has to be observant during taxi, observant of 21 all obstacles around him, is to avoid, among other 22 things, colliding with another aircraft? 23 A. Yes. 24 Q. And if you look further at number 5, it also 25 requires that -- and I'll read it -- ask for a</p>
<p>Page 74</p> <p>1 Q. So even if on the day of this accident the 2 operations manual -- and let me back up a step 3 The operations manual is the instructions 4 pursuant to which you have to operate the aircraft; 5 correct? 6 A. Yes. 7 Q. And even if on October 7, 2003, the operations 8 manual said that the captain shall perform taxi, you 9 believe and you interpret that statement to mean that 10 you had the right to delegate that to the first officer; 11 correct? 12 A. That's right. 13 Q. Have you ever talked to anyone about 14 that -- strike that. 15 Have you ever talked to anyone at ANA about 16 whether your understanding of that is correct or not? 17 A. Even without talking to anyone, it is obvious 18 that at ANA the -- it is possible for the copilot to be 19 PF from departure to arrival. 20 Q. But you never asked anyone whether you had the 21 authority to delegate the taxi to the first officer. 22 You never asked anyone that; correct? 23 A. The manual says that it is possible to have 24 the copilot operate the aircraft. 25 Q. Can you show me where in the manual it says</p>	<p>1 signalman's assistance in the event that there's any 2 obstacle in the vicinity of the ramp area. 3 Do you see that? 4 A. Yes. 5 Q. And what do you understand that that requires 6 the captain to do? 7 A. I think it is as is written. 8 Q. So as written, as you understand it, if during 9 the taxi you, as captain, perceive a potential conflict 10 or collision hazard with another aircraft, then you're 11 supposed to ask a signal person or signalman for 12 assistance. Is that a correct statement? 13 A. This is talking about a really severe 14 situation wherein there really might be a collision. 15 Q. Mr. Yamaguchi, that was not the question. The 16 question is as you understand what is written, if you 17 perceive -- let me back up. 18 Looking at your operations manual under 19 item 2, taxiing at subsection 2, which requires the 20 captain to be observant of obstacles around him, if 21 during taxi there's another aircraft in your vicinity, 22 according to this manual, you're required -- you shall 23 ask for a signalman's assistance? 24 MR. TURNER: Objection as to form and 25 foundation.</p>

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1 THE WITNESS: It depends on the situation
 2 Naturally, if I judge that a signalman is necessary, I
 3 would request a signalman.

4 MR. TORPEY: Q. What do you understand in
 5 this ops manual the word signalman as used in subsection
 6 5 means?

7 A. In Japanese the term is chijo, c-h-i-j-o,
 8 h-a-i-c-h-i, i-n, but this is a person who will help
 9 with the wing tip or the rear of the aircraft that we
 10 cannot see.

11 Q. At San Francisco airport on October 7, 2003,
 12 would the United ramp controller be someone that you
 13 would consider to fall within the definition of a
 14 signalman?

15 A. No.

16 Q. So if on October 7, 2003, you perceived that
 17 there may be a collision hazard with the United air,
 18 according to the policy in ANA's operations manual, what
 19 did you understand you had to do at that point, if
 20 anything?

21 A. At that point we were continuing with the
 22 taxiing based on the judgment that there was no
 23 potential for a collision.

24 Q. My question to you, sir, is assume that at
 25 some point prior to the impact, if you had perceived

1 to accurately answer it

2 THE WITNESS: Since this is a hypothetical
 3 issue, I cannot give an accurate answer.

4 MR. TORPEY: Q. Mr. Yamaguchi, as the pilot
 5 in command of an aircraft that had over 150 people whose
 6 lives were in your hands on October 7, 2003, are you
 7 telling me and this jury that you have no idea what you
 8 should do when faced with the possibility of colliding
 9 with the United aircraft on that day?

10 Is that what you're telling us?

11 MR. TURNER: Objection as to form and
 12 foundation.

13 MR. TORPEY: Now, before he answers, why don't
 14 you change the tape

15 THE VIDEOGRAPHER: This concludes Videotape 2
 16 in the deposition of Eishin Yamaguchi. The time on the
 17 monitor is 2:48 p.m.

18 (Discussion off the record.)

19 THE VIDEOGRAPHER: Here begins Videotape 3 in
 20 the deposition of Eishin Yamaguchi. Coming back on the
 21 record. The time on the monitor is 2:51 p.m.

22 MR. TORPEY: I'd ask that the court reporter
 23 please read the question back in English and the
 24 interpreter please read the question in Japanese.

25 (Record read by the reporter)

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1 that there was a collision hazard with the United
 2 aircraft, under the terms of the ANA operations manual,
 3 what is it that you as pilot in command or others under
 4 your command were required to do at that point?

5 A. Subsection 5 talks about a situation when the
 6 captain is not able to make a personal judgment.

7 Q. Well, the question to you is in a situation
 8 where the captain or the crew perceived -- did perceive
 9 a potential conflict or collision hazard, what is it
 10 that the ANA operations manual required you to do?

11 A. Therefore it would be a situation that is
 12 different from what is written here. We judged that
 13 taxiing was possible, so it was not necessary to call a
 14 signalman.

15 Q. If you had determined that taxiing was not
 16 possible and that you needed to call a signalman on
 17 October 7, 2003, who would you have called?

18 A. Am I obligated to answer a hypothetical
 19 question like that?

20 Q. Yeah.

21 MR. TURNER: It happens to be a very good
 22 question. I would object to it as a hypothetical
 23 without sufficient foundation or facts and incomplete
 24 hypothetical. If the witness understands it, I'd permit
 25 him to answer it assuming that he has sufficient facts

1 MR. TURNER: Objection as to form and
 2 foundation and incomplete hypothetical.

3 THE WITNESS: The answer is no.

4 MR. TORPEY: Would you read back the question
 5 and answer

6 (Record read by the reporter)

7 MR. TORPEY: Q. Now, tell us, Mr. Yamaguchi,
 8 what you as the pilot in command believed you needed to
 9 do on October 7, 2003 when faced with the potential
 10 conflict or potential collision with the United
 11 aircraft. What was it that you believe you were
 12 supposed to do at that point?

13 MR. TURNER: Objection as to form and
 14 foundation and incomplete hypothetical.

15 THE WITNESS: I do not recall how I thought at
 16 that time exactly, but I judged that taxiing was
 17 possible, therefore, I continued taxiing

18 MR. TORPEY: Q. Was it your decision or the
 19 first officer's decision to decide to continue taxiing
 20 as opposed to stop?

21 A. The two of us discussed, and the ultimate
 22 decision was mine.

23 Q. Did either the observer pilot or your first
 24 officer ever express to you concern about whether you
 25 should continue to taxi?

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21 (Pages 78 to 81)

Eishin Yamaguchi

<p>1 A. I do not recall accurately.</p> <p>2 Q. Well, do you recall anything at all about the</p> <p>3 conversation in that regard?</p> <p>4 A. I recall that we had the conversation, but I</p> <p>5 do not recall the words that were spoken.</p> <p>6 Q. Now, there's an area mike or microphones in</p> <p>7 the cockpit, and those conversations would have been</p> <p>8 recorded by the cockpit voice recorder; correct?</p> <p>9 A. I have never heard it</p> <p>10 Q. That's not the question, Mr. Yamaguchi. The</p> <p>11 question is would those discussions -- you were under</p> <p>12 power, and therefore the cockpit voice recorder was</p> <p>13 working at the time you had those discussions in the</p> <p>14 cockpit; correct?</p> <p>15 A. Yes.</p> <p>16 Q. And so whatever was said by yourself or your</p> <p>17 two fellow pilots, as far as you know would be recorded</p> <p>18 on the cockpit voice recorder; correct?</p> <p>19 A. I don't know. I've never heard it</p> <p>20 Q. Was the discussion in English or Japanese?</p> <p>21 A. Japanese.</p> <p>22 Q. Now, let's say, did you at any point ever turn</p> <p>23 off the cockpit voice recorder while you were taxiing</p> <p>24 prior to the impact?</p> <p>25 A. No.</p>	<p>1 and the captain of a 777 in San Francisco with 155 or</p> <p>2 more people. I want you to assume that you, during that</p> <p>3 taxi, see a United aircraft and you perceive that</p> <p>4 could -- you don't know for sure -- but you perceive</p> <p>5 that could be a collision hazard.</p> <p>6 Do you understand my question to this point so</p> <p>7 far, sir?</p> <p>8 MR. TURNER: So far there's no question.</p> <p>9 Objection as to form and foundation.</p> <p>10 THE WITNESS: Are you asking me to assume?</p> <p>11 MR. TORPEY: Q. Mr. Yamaguchi, I think, with</p> <p>12 all due respect, my question was clear. I've only asked</p> <p>13 you whether you understood my question to this point.</p> <p>14 Do you understand my question to this point,</p> <p>15 sir? That's the only thing I've asked you.</p> <p>16 A. I don't know what question you are referring</p> <p>17 to.</p> <p>18 Q. Mr. Yamaguchi, we'll try another question</p> <p>19 since apparently you won't answer that one.</p> <p>20 MR. TURNER: There's no reason for those kind</p> <p>21 of snide comments.</p> <p>22 MR. TORPEY: I think the question was direct,</p> <p>23 and I don't think it was answered, with all due respect</p> <p>24 to Mr. Yamaguchi. And I will try another question</p> <p>25 because apparently that's the thing to do at this point.</p>
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<p>1 Q. Now, you indicated you don't know what you</p> <p>2 thought should be done back on October 7, 2003. So I</p> <p>3 want to ask you, let's assume that today, okay, that</p> <p>4 today you're taxiing at San Francisco Airport and</p> <p>5 exactly the same situation presents itself to you as it</p> <p>6 did on October 7 of 2003.</p> <p>7 When you perceive a potential conflict or</p> <p>8 collision hazard with the United aircraft, what do you</p> <p>9 believe you should do at that point?</p> <p>10 MR. TURNER: Objection as to form and</p> <p>11 foundation, incomplete hypothetical and a misstatement</p> <p>12 of this witness's prior testimony.</p> <p>13 MR. TORPEY: Q. Go ahead.</p> <p>14 A. In the first half of your question you stated,</p> <p>15 quote, you indicated that you do not know what should be</p> <p>16 done or what should have been done on October 7, 2003,</p> <p>17 close quote.</p> <p>18 I have never made such a statement.</p> <p>19 MR. TORPEY: Q. Well, you indicated you don't</p> <p>20 recall what you thought you should do.</p> <p>21 MR. TURNER: Objection as to form and</p> <p>22 foundation, misstatement of this witness's prior</p> <p>23 testimony, and you're just arguing with the witness.</p> <p>24 MR. TORPEY: Q. Mr. Yamaguchi, I want you to</p> <p>25 assume that you, right this moment, are pilot in command</p>	<p>1 Q. I'm asking you, sir, whether today when faced</p> <p>2 with a potential collision hazard at San Francisco</p> <p>3 airport what it is you, as the pilot in command, are</p> <p>4 required to do? That's the question.</p> <p>5 A. And naturally if I believe there will be a</p> <p>6 collision, I will stop. But if I judge that there's no</p> <p>7 potential for a collision, then I will continue to taxi.</p> <p>8 Q. Now, if you're not sure whether or not you're</p> <p>9 going to make it or clear, do you agree in that</p> <p>10 situation that you should stop until you know, in fact,</p> <p>11 you're not going to collide?</p> <p>12 A. If there's a potential for a collision, then</p> <p>13 naturally we will stop.</p> <p>14 Q. And was that the understanding you had of what</p> <p>15 you should do back on October 7 of 2003 as well?</p> <p>16 A. When you ask me is that the understanding,</p> <p>17 what understanding are you talking about?</p> <p>18 Q. In response to two questions, you just told me</p> <p>19 what you believed you should do today if faced with a</p> <p>20 collision hazard. My question is would that be the same</p> <p>21 answer that would apply back in October 7 of 2003, if</p> <p>22 faced with the same situation I presented in my</p> <p>23 hypothetical today?</p> <p>24 MR. TURNER: Objection as to form and</p> <p>25 foundation.</p>
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22 (Pages 82 to 85)

Eishin Yamaguchi

<p>1 THE WITNESS: Do you wish to inquire if we 2 should have stopped? Is that what you are trying to 3 ask?</p> <p>4 MR. TORPEY: Q. Mr Yamaguchi, do you agree 5 with me, sir, that if on October 7, 2003, you or any 6 member of your flight crew felt that you were going to 7 collide with the United aircraft, that it was incumbent 8 upon you to stop your aircraft? Do you agree with that?</p> <p>9 A. If we had felt that there would be a 10 collision, then naturally we would have stopped, but we 11 did not think so. That is why we continued taxiing.</p> <p>12 Q. Now, Mr. Yamaguchi, if on October 7, 2003, you 13 didn't know for sure whether or not you might collide 14 with the United aircraft, would you agree with me that 15 you should stop until you know for sure whether or not 16 you were going to collide with the United aircraft?</p> <p>17 MR. TURNER: Objection to form and foundation.</p> <p>18 THE WITNESS: I do not agree.</p> <p>19 MR. TORPEY: Q. So even if you don't know 20 whether or not you're going to collide with the United 21 aircraft, you feel it's okay to continue taxiing until 22 you know for sure you're going to hit it?</p> <p>23 MR. TURNER: Objection as to form and 24 foundation and a misstatement of this witness's prior 25 testimony.</p>	<p>1 Q. So you believe that if United intruded into 2 the taxiing pathway, even if you have come to the 3 determination that you're not sure whether or not you 4 can clear the United aircraft, you are not obligated to 5 stop?</p> <p>6 MR. TURNER: Objection as to form and 7 foundation and a misrepresentation of this witness's 8 prior testimony.</p> <p>9 THE WITNESS: I have been repeatedly saying 10 that if we had judged that there was a possibility or 11 potential for a collision, we would have stopped. But 12 at that time our judgment that -- was that there was no 13 such possibility, therefore, we continued taxiing.</p> <p>14 MR. TORPEY: Q. You've said that repeatedly, 15 Mr. Yamaguchi, and I'm not asking you about that, so you 16 don't have to tell me that yet another time.</p> <p>17 I'm asking you now to switch to another 18 situation, that is if on October 7, 2003, you did not 19 know for sure -- and I'll repeat it -- you did not know 20 for sure that you would clear the United aircraft, in 21 that situation, Mr. Yamaguchi, you were required to 22 bring your aircraft to a stop until you knew for sure 23 that you would clear that conflict. True or false, sir?</p> <p>24 MR. TURNER: Objection as to form and 25 foundation and incomplete hypothetical.</p>
<p>Page 86</p> <p>1 THE WITNESS: I would like the question again. 2 That is not so.</p> <p>3 MR. TORPEY: Q. All right. So what you're 4 saying, Mr. Yamaguchi, is that if you're taxiing and you 5 don't know for sure whether or not you're going to clear 6 the conflict or the other aircraft, then until you do 7 know for sure that you can clear, you should stop. 8 Is that what you're saying?</p> <p>9 MR. TURNER: Objection as to form and 10 foundation and a misrepresentation of this witness's 11 prior testimony.</p> <p>12 THE WITNESS: Talking in generalities, that 13 would be the case.</p> <p>14 MR. TORPEY: Q. Okay. And if on October 7, 15 2003, you or a member of your flight crew was uncertain 16 whether or not your aircraft, if it continued to taxi, 17 would be able to do so without hitting the United 18 aircraft, then the correct thing to do would have been 19 to stop the taxi until you could determine that you 20 would be able to avoid hitting it; correct?</p> <p>21 A. That is not so.</p> <p>22 Q. Well, then explain why that's not so.</p> <p>23 A. There's another interpretation that is 24 possible and that is that the United aircraft intruded 25 into the path of our taxiing pathway.</p>	<p>Page 88</p> <p>1 THE WITNESS: There seems to be a difference 2 in our mutual understanding of the situation. I judged 3 that the situation was clear, therefore, I continued 4 taxiing, but you are working on the premise that that 5 was not possible.</p> <p>6 MR. TORPEY: Q. Mr. Yamaguchi, I'm going to 7 move to strike your answer as nonresponsive, and I'm 8 going to ask you one final time, and I'm not going to 9 ask it again. I'll take the matter up at another 10 time if need be.</p> <p>11 MR. TURNER: I object to your comments to this 12 witness.</p> <p>13 MR. TORPEY: Q. You've told us repeatedly 14 that you believe that you could clear. I am not asking 15 you about that. I'll let you translate that.</p> <p>16 One last time, Mr. Yamaguchi, I want you to 17 assume -- I want you to assume that on October 7, 2003, 18 while your aircraft with 155 passengers was taxiing 19 under your command and you saw the United aircraft and 20 perceived a potential collision hazard, do you agree, 21 Mr. Yamaguchi, that you were obligated to stop if you 22 did not know whether or not you were going to clear, if 23 you did not know -- and I'll repeat -- if you did not 24 know you would clear, you were obligated to stop; 25 correct?</p>

23 (Pages 86 to 89)

Eishin Yamaguchi

<p>1 MR. TURNER: Objection as to form, foundation, 2 incomplete hypothetical.</p> <p>3 THE WITNESS: I am afraid my answer is the 4 same. I did not believe that there would be a 5 collision. I judged that it was possible to taxi.</p> <p>6 MR. TORPEY: All right. I'd ask the reporter 7 to mark that last two sequences of question and answer 8 We need to have that portion of the transcript if we 9 need to go back to that.</p> <p>10 I will move to strike, but again, I will take 11 that up at another time. I'm not going to argue with 12 the witness, and I'm not going to ask any further 13 questions. I have a number of follow-ups. That's a 14 critical issue, and I'm not going to go further in light 15 of the fact that the witness is being unresponsive.</p> <p>16 MR. TURNER: I disagree with your comments and 17 believe the witness is answering your questions as best 18 he can. It's the questions that leave a lot to be 19 desired. It's up to you whether you want to continue on 20 this line or not.</p> <p>21 MR. TORPEY: Well, I've said what I have to 22 say.</p> <p>23 Q. Mr. Yamaguchi, I'm going to ask you something 24 different. You indicated that you thought that your 25 aircraft would clear and therefore you continued to taxi</p>	<p>1 thought you were going to be able to clear, and based on 2 that discussion, is it your understanding that the other 3 two agreed with you that there was a 100 percent 4 certainty that you would clear the United aircraft and 5 therefore did not have to stop?</p> <p>6 MR. TURNER: Objection as to form and 7 foundation. Just being repetitious and arguing with 8 this witness, but if you want to waste your time like 9 that, it's fine with me.</p> <p>10 THE WITNESS: I am repeating myself, but I do 11 not have an accurate understanding of what other people 12 were thinking.</p> <p>13 MR. TORPEY: Q. If hypothetically the flying 14 pilot, your copilot or the observer pilot had indicated 15 to you as the pilot in command that they're not certain 16 whether or not your aircraft was going to clear the 17 United aircraft, would you have continued to taxi, or 18 would you have ordered the aircraft to stop?</p> <p>19 MR. TURNER: Objection as to form and 20 foundation and incomplete hypothetical.</p> <p>21 THE WITNESS: If I can go back to four years 22 ago, perhaps I can give you an answer, but I cannot say 23 what was the thought, stopping or continuing.</p> <p>24 MR. TORPEY: Again, I'll move to strike as 25 nonresponsive</p>
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<p>1 as opposed to stopping. Is that your position in this 2 case, sir?</p> <p>3 A. Yes.</p> <p>4 Q. Now, up until the actual moment when your 5 aircraft impacted the United aircraft, are you 6 testifying here under oath that you believed that your 7 aircraft was not going to hit the United aircraft, you 8 were a hundred percent certain up until the moment of 9 impact that you were not going to hit that United 10 aircraft? Is that your testimony?</p> <p>11 MR. TURNER: Objection as to form and 12 foundation</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. TORPEY: Q. And is it your understanding 15 your first officer and the observer pilot were also 100 16 percent certain up to the moment of impact that there 17 was not going to be a collision between the United 18 aircraft and your aircraft?</p> <p>19 MR. TURNER: Objection as to form and 20 foundation</p> <p>21 THE WITNESS: They are other people, so I do 22 not know. But I was the PIC, so I rendered the ultimate 23 decision.</p> <p>24 MR. TORPEY: Q. Well, but you also discussed 25 in Japanese with the other two whether or not you</p>	<p>1 Q. Mr. Yamaguchi, that wasn't my question. I 2 didn't ask you what you were thinking back then. I 3 asked you if your first officer or your observer pilot 4 had expressed to you concern to the effect that they 5 were not sure whether or not -- whether or not -- your 6 aircraft was going to clear.</p> <p>7 If, hypothetically, they had said that to you, 8 as the pilot in command, you were obligated to bring 9 your aircraft to a stop until you knew whether or not 10 you were going to collide with the United aircraft?</p> <p>11 MR. TURNER: Objection as to form and 12 foundation and incomplete hypothetical.</p> <p>13 THE WITNESS: If there had been such a 14 statement, then I would have considered that statement. 15 But I do not know if we would have stopped or not. I'd 16 like to take a break at an appropriate time.</p> <p>17 MR. TURNER: Good idea. This is an 18 appropriate time. We've been going for an hour and a 19 half since lunch.</p> <p>20 THE VIDEOGRAPHER: Going off the record. The 21 time on the monitor is 3:33 p.m.</p> <p>22 (Recess taken)</p> <p>23 THE VIDEOGRAPHER: Coming back on the record. 24 The time on the monitor is 3:47 p.m. Please begin.</p> <p>25 MR. TORPEY: Q. Mr. Yamaguchi, we were</p>
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Eishin Yamaguchi

<p>1 talking before the break about the fact that you were 2 certain that you were not going to collide with United 3 aircraft, and that's why you did not order the aircraft 4 stopped prior to impact 5 What did you or others in your flight crew do 6 to determine and come to the conclusion that you were 7 definitely not going to hit the United aircraft?</p> <p>8 A First of all --</p> <p>9 THE INTERPRETER: The interpreter will 10 restate</p> <p>11 THE WITNESS: First of all, from the cockpit 12 we saw that there was sufficient clearance or distance 13 and we had received the clearance to taxi and was 14 taxiing according to instructions. But from a certain 15 point in time it is no longer possible to see the rear 16 of the aircraft, therefore, from that point on, it is 17 not possible to judge what the opposing aircraft did.</p> <p>18 MR. TORPEY: Q. All right. Let me ask you. 19 Mr. Yamaguchi, what you're saying is at some point in 20 time you can't see the tip of your right wing tip as you 21 continue to taxi towards the United aircraft; correct?</p> <p>22 A. The wing tip cannot be seen from the cockpit.</p> <p>23 Q. And it was the wing tip --</p> <p>24 A. In a way.</p> <p>25 Q. I'm sorry. The right wing tip of your</p>	<p>1 Q. If you open the window on the right-hand side, 2 you'd be able to see the tip of the right wing, correct, 3 if you stick your head out and look?</p> <p>4 A. The potential for a collision wasn't that 5 imminent, therefore, that was not done. But even if 6 that window was opened and someone had looked out, it 7 would be difficult to gauge the distance between the 8 wing tip of our aircraft and the wing tip of the 9 opposing aircraft</p> <p>10 MR. TORPEY: And I'll move to strike.</p> <p>11 Q. The question, Mr. Yamaguchi, is if you looked 12 out the window, opened the window, put your head out and 13 looked out the window, you can see the wing tip on the 14 right-hand side of your aircraft. True statement, sir?</p> <p>15 A. The answer is the same. Since that was not 16 necessary, it was not done.</p> <p>17 Q. I didn't ask you that, Mr. Yamaguchi. Once 18 again, I'll move to strike, and for the last time I'll 19 ask you this question.</p> <p>20 If you want to see the right wing tip of your 21 aircraft while you're sitting at the gate and you open 22 that right-hand window and stick your head out, you can 23 see the right wing tip of your aircraft, that 777 24 aircraft; correct?</p> <p>25 A. That may be possible, but that is not a usual</p>
<p>Page 94</p> <p>1 aircraft is what collided with the United aircraft; 2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And, in fact, even if you had looked out from 5 the first officer's position or your position or the 6 observer's position, even at the gate, you would still 7 not be able to see the wing tip of your aircraft; 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So during the entire time you're taxiing from 11 the gate to the impact, the portion of your aircraft 12 that struck the United aircraft, was never visible to 13 you, the flying pilot or the observer pilot 14 True statement?</p> <p>15 A. You mean our wing tip?</p> <p>16 MR. TORPEY: Read back the question, please 17 (Record read by the reporter.)</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. TORPEY: Q. Now, there's a window on the 20 right-hand side of the cockpit that opens; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did anyone that day prior to the impact open 23 the window and try to look out to see the wing tip 24 before the impact?</p> <p>25 A. No</p>	<p>Page 95</p> <p>1 procedure.</p> <p>2 Q. So you agree with me that if you wanted to 3 stick your head out the window as you were taxiing on 4 October 7, 2003, to see your right wing tip, you could 5 have done that, and you would have seen the right wing 6 tip; correct?</p> <p>7 A. In such a situation at that time it was not 8 necessary to open the window and see the right wing tip, 9 and, actually, it should not be done because naturally 10 our aircraft would come to a stop, and it would not be 11 necessary.</p> <p>12 Q. Are you testifying you have to stop the 13 aircraft to open that right window?</p> <p>14 A. Ordinarily the aircraft would be stopped</p> <p>15 Q. Not asking you ordinarily, Mr. Yamaguchi. I'm 16 asking you whether you are testifying that in order to 17 physically open the right wing -- excuse me -- the right 18 window of your aircraft, that the aircraft must be at a 19 stop or you are unable to physically open that window? 20 Is that your testimony, sir?</p> <p>21 A. That is not so.</p> <p>22 Q. If you wanted to open the window -- I'm not 23 asking you whether you think you should. I'm asking you 24 if you wanted to open the window or have your flying 25 pilot open the window on October 7 of 2003, look out the</p>

25 (Pages 94 to 97)

Eishin Yamaguchi

1 window and see the wing tip to determine if there would
 2 be clearance between your aircraft and the United
 3 aircraft, you could have done that; correct? That's the
 4 only question. You could have done that; correct?
 5 MR. TURNER: Objection to form and foundation.
 6 And I would like the question read back
 7 (Record read by the reporter)
 8 THE WITNESS: I do not know if we could have,
 9 but it was not necessary to do so. In fact, the United
 10 aircraft people did not open that aircraft's window
 11 either.
 12 MR. TORPEY: Q. I'll move on to another
 13 question, Mr. Yamaguchi. I'm not going to continue to
 14 ask you the same thing and get the same answer, so let
 15 me ask you this.
 16 If, in fact, as you've testified you can't see
 17 the right wing tip of your aircraft, then there is
 18 absolutely no way you or your flying pilot or your
 19 observer pilot can know for certain whether or not the
 20 right wing tip is going to collide with the United
 21 aircraft because you can't see it within the cockpit
 22 True statement?
 23 A. The judgment of the --
 24 THE INTERPRETER: The interpreter will
 25 restate. The interpreter has to confirm one word.

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1 MR. TORPEY: Q. And what if you couldn't make
 2 a determination either way? Would you stop or would you
 3 just drive up your driveway and see if you run over the
 4 glass?
 5 MR. TURNER: Objection as to form and
 6 foundation and incomplete hypothetical.
 7 THE WITNESS: Naturally, if I am in a
 8 quandary, I would stop.
 9 MR. TORPEY: Q. And let me ask you this,
 10 Mr. Yamaguchi. If you or others in the cockpit cannot
 11 see the wing tip of your aircraft as you're taxiing
 12 towards the United Airlines on October 7, 2003, then
 13 there's a portion of your aircraft that potentially is a
 14 conflict hazard that you cannot rule out simply by
 15 looking out the cockpit windows; correct?
 16 A. That is a structural issue. As long as one
 17 operates a vehicle of that structure, it cannot be
 18 helped.
 19 Q. I'm not asking you, Mr. Yamaguchi, if it can
 20 be helped. I'm asking you once again, that since you
 21 cannot see the right wing tip of your aircraft, it is
 22 not possible -- it is impossible for you to see whether
 23 or not your wing tip is going to clear the United
 24 aircraft simply by looking out the windows in the
 25 cockpit.

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1 THE WITNESS: The space or distance was judged
 2 before the collision took place. It is just like
 3 someone who is driving a car from his left seat he
 4 cannot see the front right wheel of his car when he's
 5 driving.
 6 MR. TORPEY: Q. Well, if there was an object
 7 in front of the front right wheel of your car, and you
 8 didn't know -- let's put it this way.
 9 Let's say you're driving a car. Let's say
 10 you're just driving into a driveway in your house and
 11 let's say there's a bunch of nails in your driveway or
 12 maybe some glass.
 13 And let's say that you pull in but you can't
 14 really see your right front tire so you don't know if
 15 you are going to run it over and get a flat.
 16 Would you keep going until you see if you can
 17 make it, or would you stop, get out of the car and try
 18 to determine whether your tire was going to run over
 19 it?
 20 What would you do, sir?
 21 MR. TURNER: Object as to form and foundation.
 22 THE WITNESS: That would depend on the
 23 situation. If I judge that it is dangerous, then I
 24 would stop and remove them. But if I judge that I can
 25 pass by, I would do so.

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1 Is that a true statement or false statement?
 2 That's the question. Just say true or say false.
 3 That's the question.
 4 MR. TURNER: Objection as to form and
 5 foundation and the witness is instructed to give the
 6 appropriate answer that he believes is responsive
 7 MR. TORPEY: No. The witness is to answer
 8 true or false. That's the question. You aren't to
 9 instruct your witness to answer other than a way I've
 10 asked the question.
 11 MR. TURNER: You are not to instruct the
 12 witness how to answer the question.
 13 MR. TORPEY: Well, I'm not going to argue with
 14 you, Marshall. If you want to instruct him not to
 15 answer that question, you do so and you have a reason
 16 for doing so if you do. But I've asked a question.
 17 I've asked this witness whether he thinks it's a true
 18 statement or a false statement. That's the only
 19 question.
 20 Now if you want to follow up and ask questions
 21 additionally when you have a chance to do it, you can do
 22 it.
 23 Q. But right now, sir, all I want to know is what
 24 I said to you is that a true statement or a false
 25 statement? That's the question.

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<p>1 MR TURNER: The witness can give what he 2 believes is an appropriate responsive answer. 3 THE INTERPRETER: The interpreter will repeat 4 the question in Japanese 5 THE WITNESS: We can see the right wing tip of 6 the UA aircraft from its location. We can judge if 7 there is sufficient clearance. 8 MR. TORPEY: I'll move to strike the answer. 9 That wasn't the question, and the witness did not give a 10 true or false statement, so I'm going to move to strike 11 Q I'm going to move on to something else because 12 apparently I cannot ask you with regard to that question 13 any further questions until we have a ruling on that 14 Now, Mr. Yamaguchi, after the impact, what did 15 you and your other crew members do? 16 A. We confirmed that there was no fuel leakage 17 Q How did you do that? 18 A. The observer pilot looked in the window at the 19 right 20 Q Did he open the window? 21 A. No. 22 Q Did you or the observer pilot or the flying 23 pilot of this aircraft get out and look around the 24 ground area where the collision occurred? 25 A. No.</p>	<p>1 Stayed on it, and ultimately it was tugged back to the 2 gate and that's where you got off. You walked directly 3 into the jetway again? 4 A. Yes. 5 Q Now, when you impacted the United aircraft, 6 did your aircraft come virtually immediately to a stop? 7 A. Our aircraft did stop, but we don't know if it 8 is due to the impact or due to the braking by the flying 9 pilot 10 Q Okay. Did he apply brakes immediately upon 11 impact? 12 A. That I do not know. 13 Q Did you do anything in terms of braking or 14 physically manipulating any of the controls at any time 15 on or after the impact? 16 A. No. I did not apply the brakes nor did I 17 manipulate any control. 18 MR. TORPEY: Now, let me show you -- let's 19 mark this as the next exhibit. In fact, the next two 20 exhibits. 21 (Whereupon, Exhibits 3 and 4 were marked for 22 identification.) 23 MR. TORPEY: Q. Have you had a chance, 24 Mr. Yamaguchi, to look at Exhibits 3 and 4, those being 25 airport operations bulletins of July 31, 2000, and</p>
<p>Page 102</p> <p>1 Q. So other than looking out the window by the 2 observer pilot to see whether there was any fuel 3 leaking, did you or the other members of your crew take 4 any other action other than simply leaving the airplane 5 and going directly into the terminal? 6 A. We received a report from the cabin. 7 Q. Who, and what was that report? 8 A. I don't recall who. 9 Q. From a flight attendant. 10 THE WITNESS (WITHOUT INTERPRETER): Yes. 11 MR. TORPEY: Q. And what did the flight 12 attendant say, if you recall? 13 A. The flight attendant reported that there was 14 nothing unusual in the cabin and the attendant reported 15 that there was no injury. He or she then inquired what 16 happened. 17 Q. And how were you all taken off the aircraft? 18 Did you go out a back stairway on to a bus, or was your 19 aircraft pulled back to the gate. How was it that you 20 ultimately got off the aircraft, you and the other crew 21 members? 22 A. The aircraft was tugged and pulled back to the 23 gate. 24 Q. So you never left -- you or your other crew 25 members never got off the airplane, after the impact?</p>	<p>1 August 7, 2001? 2 A. No. 3 Q. Have you ever seen those before? 4 A. No. 5 Q. Were you aware -- let me have you look at 6 Exhibit 3, for example. It says, to all airlines and 7 aeronautical support tenants. 8 On July 31, 2000, All Nippon Airways was 9 flying aircrafts into San Francisco Airport; correct? 10 THE INTERPRETER: May I have the question, 11 please. 12 MR. TORPEY: Let me ask you to mark this -- 13 why don't you mark this as exhibit whatever is next, 5, 14 I guess. 15 MR. WORTHE: 5. 16 (Whereupon, Exhibit 5 was marked for 17 identification.) 18 MR. TORPEY: Q. Mr. Yamaguchi, you can see 19 that is -- let me represent to you that is a satellite 20 photograph of the terminal and ramp area at 21 San Francisco Airport that includes the area where the 22 taxi and impact occurred. 23 You'll see that there are designated areas for 24 nonmovement area and others that are called movement 25 areas. Are you familiar with what a movement area is</p>

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<p>1 versus a nonmovement area?</p> <p>2 A. Yes</p> <p>3 Q. What is the difference or the distinction</p> <p>4 between what would be considered the movement area and</p> <p>5 the nonmovement area in Exhibit 5?</p> <p>6 A. Nonmovement area is under the jurisdiction of</p> <p>7 the ramp control, whereas the movement area is under the</p> <p>8 jurisdiction of ground control.</p> <p>9 Q. And ramp control is United ramp control in</p> <p>10 this area; correct?</p> <p>11 A. I don't know if it is United or not, but it is</p> <p>12 called a ramp control</p> <p>13 Q. And the movement area is not under the control</p> <p>14 of ramp control; correct?</p> <p>15 A. Ordinarily that is so, but this particular</p> <p>16 area is one where there is an overlap, so I don't know</p> <p>17 what the true situation of the operation is.</p> <p>18 Q. As a pilot for ANA are you saying that you do</p> <p>19 not know the distinction at San Francisco International</p> <p>20 Airport with regard to who has jurisdiction over the</p> <p>21 movement versus the nonmovement area?</p> <p>22 A. There's a guideline on the chart, but there is</p> <p>23 no way that I would be able to know how the ramp control</p> <p>24 and ground control actually operate</p> <p>25 Q. In order to taxi your aircraft onto any</p>	<p>1 Q. And if you look at definitions, it describes</p> <p>2 what a movement area is and a nonmovement area. Do you</p> <p>3 see that?</p> <p>4 A. Yes.</p> <p>5 Q. And then under that there's something called</p> <p>6 reporting point</p> <p>7 A. Yes.</p> <p>8 Q. And it says numeric pavement marking located</p> <p>9 on a taxiway that indicates a transition area from a</p> <p>10 nonmovement to a movement area, and it includes</p> <p>11 number 1, 2, 10, and 11. You see that?</p> <p>12 A. Yes.</p> <p>13 Q. Now, are you familiar with the reporting area</p> <p>14 known as spot 10 at San Francisco Airport?</p> <p>15 A. Yes.</p> <p>16 Q. And is it your understanding that spot 10 --</p> <p>17 in fact, if you look at Exhibit 5, that recon photo 1,</p> <p>18 do you see that designation for spot 10 where the arrow</p> <p>19 is pointing?</p> <p>20 A. Yes.</p> <p>21 Q. And do you understand that that's the</p> <p>22 reporting point or the transition point between the</p> <p>23 nonmovement to the movement area?</p> <p>24 A. Yes</p> <p>25 Q. Do you know why spot 10 is called a reporting</p>
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<p>1 portion of a movement area at San Francisco, you have to</p> <p>2 contact the Federal Aviation Administration, ATC ground</p> <p>3 control; isn't that true?</p> <p>4 A. I would like the question again, please.</p> <p>5 Q. In order to taxi into any portion of a</p> <p>6 movement area, you must get clearance from air traffic</p> <p>7 control ground control; correct?</p> <p>8 A. That's right.</p> <p>9 Q. And you cannot get permission from ramp</p> <p>10 control to go into a movement area; correct?</p> <p>11 A. Yes</p> <p>12 Q. Now, the ground control, that is the Federal</p> <p>13 Aviation Administration that are the ground controllers;</p> <p>14 is that correct?</p> <p>15 A. I do not know if it is under the jurisdiction</p> <p>16 of the FAA, but the ground control controls the movement</p> <p>17 area</p> <p>18 Q. Okay. Let me have you look back at Exhibits 3</p> <p>19 and 4, which were airport operations bulletins issued on</p> <p>20 the dates indicated to all airlines which would include</p> <p>21 ANA, and it looks -- under background -- in fact, if you</p> <p>22 turn to the next page under procedures --</p> <p>23 MR. TURNER: Are you referring to 3 or 4?</p> <p>24 MR. TORPEY: Let's look at Exhibit 3 first.</p> <p>25 And I guess let's start under definitions.</p>	<p>1 point?</p> <p>2 A. That I did not know</p> <p>3 Q. If you look at the next line, procedures, it</p> <p>4 says here, aircraft -- strike that.</p> <p>5 The second paragraph under procedures, it says</p> <p>6 here, unless otherwise directed, outbound taxiing</p> <p>7 aircraft shall stop at respective reporting point prior</p> <p>8 to contacting SFO air traffic control terminal for</p> <p>9 further taxi instructions. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. On October 7, 2003, were you aware of that</p> <p>12 requirement?</p> <p>13 A. Yes.</p> <p>14 Q. And how is it that you became aware of that</p> <p>15 requirement on October 7, 2003, prior to that impact?</p> <p>16 A. It is written on the route manual.</p> <p>17 Q. All right. This is the manual that goes with</p> <p>18 the aircraft; correct?</p> <p>19 A. It is the manual that each individual has</p> <p>20 Q. And as the pilot in command or the flying</p> <p>21 pilot, both you and your copilot were required to know</p> <p>22 and follow that instruction; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And if you turn the page again to the third</p> <p>25 page of Exhibit 3, it states here that all airlines are</p>
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<p>1 required to closely monitor and follow the clearances 2 provided by these towers as well as those of FAA, ATC 3 upon reaching reporting points which included spot 10 4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And do you know what, if anything, ANA was 7 doing at any time prior to October 7, 2003, to monitor 8 or enforce the requirements to comply with those 9 clearances as that bulletin direction?</p> <p>10 A. There was nothing that was special but the 11 same thing is included in the route manual</p> <p>12 Q. Okay. And I apologize if I asked you this 13 before. The route manual would be carried on the 14 aircraft you were taxiing the day of this accident; 15 correct?</p> <p>16 A. Yes.</p> <p>17 MR. TORPEY: Let's mark this as Exhibit 6. 18 (Whereupon, Exhibit 6 was marked for 19 identification.)</p> <p>20 MR. TORPEY: Q. I'll represent to you, 21 Mr. Yamaguchi, that that was a partial transcript 22 prepared by ANA submitted to the NTSB as parts of its 23 investigation package with regard to their investigation 24 into the circumstance in this matter</p> <p>25 Have you ever seen that partial transcript</p>	Page 110	<p>1 Q. And that would be consistent with -- strike 2 that</p> <p>3 In other words, until you've got clearance 4 from ground or air traffic control, no part of your 5 aircraft, not the tip, not any part of your aircraft can 6 enter the movement area until you get clearance from 7 ground; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, let's look at the second page of 10 Exhibit 6, and if you look at the time reference of 11 11:54:54 through 57, once again, you personally are now 12 calling this time ATC ground control; correct?</p> <p>13 A. Yes</p> <p>14 Q. And you asked at that point, you said you were 15 approaching spot 10 and you requested clearance to taxi, 16 in other words, to go now from spot 10 into the movement 17 area; correct?</p> <p>18 MR. TURNER: Objection as to form and 19 foundation and a misstatement of this written 20 transcript</p> <p>21 MR. TORPEY: Q. Go ahead, Mr. Yamaguchi.</p> <p>22 A. May I have the question once more</p> <p>23 MR. TORPEY: Read it back.</p> <p>24 (Record read by the reporter.)</p> <p>25 THE WITNESS: Yes.</p>
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<p>1 before?</p> <p>2 A. Yes.</p> <p>3 Q. And you understand that that is, in fact, a 4 partial transcript of the ANA cockpit voice recording 5 from the day of this accident?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Let's turn to where it says ramp 8 time. That's the middle column. Let's go down to 9 11:53:51 through 57.</p> <p>10 There's communication from ramp tower to 11 yourself and that would literally -- you were the one 12 talking to the ramp tower that day; correct?</p> <p>13 A. Yes</p> <p>14 Q. And the ramp tower responded to you by saying 15 Air Nippon 007, you are cleared to spot 10, please 16 Have a good day. And then the very next line at 17 11:53:59, you personally would have responded to ramp 18 tower saying, cleared to spot 10. Have a good day.</p> <p>19 MR. TURNER: I just want to state for the 20 record that in your reading you omitted a few words from 21 the first reading. At time 11:53:28 to 11:53:32.</p> <p>22 MR. TORPEY: Q. Mr. Yamaguchi, you understood 23 that you were cleared only to go to, not beyond, spot 10 24 by ramp control; correct?</p> <p>25 A. Yes</p>	Page 111	<p>1 MR. TORPEY: Q. Okay. Now, in order for 2 you -- strike that.</p> <p>3 If you go back to the first page of Exhibit 6, 4 after you asked ground -- strike that.</p> <p>5 After you called the ramp tower, the United 6 ramp tower, and asked and understood you were cleared to 7 spot 10, that was the last time prior to impact you 8 attempted to contact United ramp control prior to the 9 impact; correct? You never again made an attempt to 10 contact United ramp control?</p> <p>11 A. From this point to the point, time, is 12 11:56:29, I have not</p> <p>13 Q. So by 11:56:29, that's after the impact?</p> <p>14 A. No. It's before the impact.</p> <p>15 Q. I don't see here on Exhibit 6 where you tried 16 to contact ramp control after being cleared to spot 10.</p> <p>17 Can you show me where you attempted to do that?</p> <p>18 A. To ramp control did you say?</p> <p>19 Q. Yes.</p> <p>20 A. That record is not here, so up to this point 21 there has been no communication to ramp control.</p> <p>22 Q. So is it fair to say then, Mr. Yamaguchi, that 23 once you received and understood you were cleared by 24 United ramp control to proceed to spot 10 that you did 25 not make any further attempts to contact ramp control</p>
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<p>1 for any reason at any time prior to the impact? 2 A. Yes. 3 Q. Now, once you do at 11:54:54 contact ground, 4 that's ATC ground, to do that you had to switch your VHF 5 radio from the frequency that you use to talk to the 6 United ramp control to a different frequency in order to 7 contact ATC ground; correct? 8 A. Yes. 9 Q. And would you have personally been the one to 10 make the frequency change on the radio? 11 A. I believe it was me because I was responsible 12 for the radio communication 13 Q. And that would have been the left VHF? 14 A. Ordinarily we use the left VHF, so probably it 15 was that at that time. 16 Q. So isn't it fair to say, Mr Yamaguchi, that 17 once you changed frequency after being cleared to 18 spot 10, up until the point of the impact, there was no 19 way for United ramp control to contact you or for you to 20 contact them at that point? 21 A. In a way it is correct. We were told and 22 instructed by the ramp control to taxi it to spot 10 and 23 to contact ground, and then we changed the frequency in 24 this case this have a good day right here, means contact 25 ground</p>	<p>1 control. They said, have a good day. It means change 2 the frequency. 3 MR. TORPEY: Q. Again move to strike, 4 Mr Yamaguchi. One last time. 5 You, after you were cleared to spot 10 by ramp 6 control, you were no longer listening to nor making 7 attempts to contact United ramp control prior to the 8 impact. Is that a true statement, sir? 9 MR. TURNER: Objection as to form and 10 foundation. 11 THE WITNESS: Naturally we cannot hear the 12 instruction from the ramp control, but if necessary, we 13 could change the frequency from the ground control 14 frequency to the ramp control frequency once again. But 15 in this case, it was not necessary to do so. 16 MR. TORPEY: Q. Now, in changing frequencies 17 from the ramp control to the ground control, you did 18 that prior to reaching spot 10; correct? 19 A. Yes. 20 THE VIDEOGRAPHER: Sorry I need to change 21 tape. 22 MR. TURNER: Let's also take a break. We have 23 been going for over an hour and 15 minutes. 24 MR. TORPEY: No problem. 25 THE VIDEOGRAPHER: This concludes Videotape 3</p>
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<p>1 Q. Mr Yamaguchi, prior to the impact and after 2 being cleared to spot 10, you switched the frequency on 3 your radio and accordingly there was no way from that 4 point to the impact for United ramp control to call you 5 or for you to call them. Is that a true statement, sir? 6 A. No I don't think so. Right here at 7 11:55:34 -- 8 THE INTERPRETER: The interpreter will 9 restate 10 THE WITNESS: Right here at 11:55:28 it says, 11 you are cleared to spot 10, please. So they are telling 12 us that there is no obstacle to us up to spot 10. 13 MR. TORPEY: Q. Again move to strike. That's 14 not the question, Mr Yamaguchi. The question had 15 nothing to do about what you interpreted it. The 16 question has to do with whether, after you switched 17 frequencies so you're no longer talking to the ramp 18 control, you're talking to ground, from that point to 19 the impact there was no way for United ramp control to 20 contact you or you to contact them. Is that true or is 21 that false? 22 MR. TURNER: Objection as to form and 23 foundation. 24 THE WITNESS: At this point it was no longer 25 necessary to monitor the frequency related to the ramp</p>	<p>1 in the deposition of Eishin Yamaguchi. The time on the 2 monitor is 5:02 3 (Recess taken.) 4 THE VIDEOGRAPHER: Here begins Videotape 4 in 5 the deposition of Eishin Yamaguchi. Coming back on the 6 record. The time on the monitor is 5:17. Please begin. 7 MR. TORPEY: Q. Mr. Yamaguchi, you indicated 8 that the statements that I read to you earlier in 9 Exhibits 3 and 4 to the effect that you're supposed to 10 stop at spot 10 prior to contacting ground that there 11 was a similar instruction in your route or route manual; 12 correct? 13 A. Yes. 14 Q. And that was true on October 7 of 2003; 15 correct? 16 A. Well, the manual has been revised since then, 17 but I believe that the content would be the same. 18 Q. Okay. Now, are the route manual policies, 19 including that one, considered company policies of ANA 20 which you and all company pilots are required to follow? 21 A. Yes. 22 Q. And switching frequencies and contacting ATC 23 ground before you got to spot 10, you violated the 24 company policy on October 7, 2003; correct? 25 A. No, that is not so.</p>
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<p>1 Q. Why is that not so?</p> <p>2 A. Exhibit 3, second paragraph under procedures</p> <p>3 says, unless otherwise directed. And we were otherwise</p> <p>4 directed. They said have a good day, which means you</p> <p>5 may now change frequency</p> <p>6 Q. Where is it written that have a good day means</p> <p>7 that you can violate your company's policy against</p> <p>8 switching frequencies before you get to spot 10?</p> <p>9 MR. TURNER: Objection as to form and</p> <p>10 foundation and a misstatement of this witness's prior</p> <p>11 testimony</p> <p>12 THE WITNESS: Between a pilot and a</p> <p>13 controller, the intent of the phrase have a good day</p> <p>14 means good-bye, so you can now change to a different</p> <p>15 frequency. If that had not been the intent, then they</p> <p>16 would have said to us, remain that frequency</p> <p>17 MR. TORPEY: Q. Well, Mr. Yamaguchi, the fact</p> <p>18 that there was no longer any need for the ramp</p> <p>19 controller to talk to you further because they've</p> <p>20 already cleared you to spot 10, that does not mean that</p> <p>21 the ramp controller authorized you to stop monitoring</p> <p>22 that frequency before you got to spot 10; correct?</p> <p>23 MR. TURNER: Objection as to form and</p> <p>24 foundation, misstatement of this witness's testimony and</p> <p>25 you're just trying to argue with the witness</p>	Page 118	<p>1 command, 155 people on your airplane, you're taxiing</p> <p>2 with the right wing tip you cannot see out the window.</p> <p>3 Do you think, Mr. Yamaguchi, that for the</p> <p>4 safety of your passengers it would have been a good idea</p> <p>5 for you to contact ramp control once you saw the United</p> <p>6 aircraft and asked ramp control whether or not your</p> <p>7 aircraft was going to clear that United aircraft?</p> <p>8 MR. TURNER: Objection as to form and</p> <p>9 foundation</p> <p>10 THE WITNESS: In this situation we did not do</p> <p>11 that because it was not necessary</p> <p>12 MR. TORPEY: Q. You believed it was not</p> <p>13 necessary because you were a hundred percent certain</p> <p>14 that you were not going to hit that aircraft, the United</p> <p>15 aircraft; correct?</p> <p>16 MR. TURNER: Objection as to form and</p> <p>17 foundation.</p> <p>18 THE WITNESS: Yes</p> <p>19 MR. TORPEY: Q. What if you were not a</p> <p>20 hundred percent certain? What if you were something</p> <p>21 less than a hundred percent certain? Do you believe in</p> <p>22 that situation, believe that for the safety of the 155</p> <p>23 people on your aircraft that you as the pilot in</p> <p>24 command, as the communicating pilot should have</p> <p>25 attempted to contact United ramp control to determine if</p>	Page 120
<p>1 THE WITNESS: No I do not think so. If it</p> <p>2 had been necessary to maintain the frequency and monitor</p> <p>3 the frequency with the ramp control, they would have</p> <p>4 said, clear to spot 10, and then contact ramp</p> <p>5 control -- they would have said.</p> <p>6 THE INTERPRETER: The interpreter will</p> <p>7 restate</p> <p>8 THE WITNESS: If it had been necessary to</p> <p>9 continue to monitor the ramp tower frequency, they would</p> <p>10 have stated the clearance in this manner, quote, you are</p> <p>11 cleared to spot 10. Contact ground at spot 10</p> <p>12 MR. TORPEY: Q. Mr. Yamaguchi, do you believe</p> <p>13 that there's any safety hazard to the 155 people on your</p> <p>14 airplane whose lives you're responsible for by virtue of</p> <p>15 the fact that you switched frequencies and are no longer</p> <p>16 talking to ramp control which is the controller that is</p> <p>17 monitoring the nonmovement area?</p> <p>18 Do you think that that's dangerous that you've</p> <p>19 switched that frequency when you're still in the</p> <p>20 nonmovement area and can no longer hear or talk to the</p> <p>21 ramp control?</p> <p>22 MR. TURNER: Objection as to form and</p> <p>23 foundation.</p> <p>24 THE WITNESS: No, I do not.</p> <p>25 MR. TORPEY: Q. Now, you're the pilot in</p>	Page 119	<p>1 your aircraft was going to clear with other aircraft?</p> <p>2 A. My answer will be the same. In that situation</p> <p>3 we judged that we had a 100 percent understanding that</p> <p>4 there was clearance, therefore, we continued to taxi and</p> <p>5 stayed at the ground frequency.</p> <p>6 Q. Again I'll move to strike, Mr. Yamaguchi.</p> <p>7 That's totally unresponsive to my question. So as with</p> <p>8 my other questions, I'm going to ask the court to look</p> <p>9 at it, and I'll move on. I can't obviously ask you</p> <p>10 anything else about that at the moment, so I'm going to</p> <p>11 turn to another topic.</p> <p>12 On the day of the accident, Mr. Yamaguchi, as</p> <p>13 the pilot in control and with 155 people in your</p> <p>14 aircraft whose safety you're responsible for, if you</p> <p>15 wanted to stop the taxi and call ramp control, you had</p> <p>16 the ability to do that; correct?</p> <p>17 MR. TURNER: Objection as to form and</p> <p>18 foundation.</p> <p>19 THE WITNESS: I had the ability, but I did not</p> <p>20 believe that there was a necessity.</p> <p>21 MR. TORPEY: Q. And had you stopped and</p> <p>22 contacted ramp control to inquire whether your aircraft</p> <p>23 could safely pass by the United aircraft, what would you</p> <p>24 have had to have done in order to do that?</p> <p>25 MR. TURNER: Objection as to form and</p>	Page 121

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<p>1 foundation.</p> <p>2 THE WITNESS: I don't understand Could I 3 have the question again.</p> <p>4 MR. TORPEY: Read it back.</p> <p>5 (Record read by the reporter.)</p> <p>6 MR. TURNER: Same objection</p> <p>7 THE WITNESS: We felt that there was no need 8 to take any action other than those that we took.</p> <p>9 MR. TORPEY: Move to strike Not responsive.</p> <p>10 Q. I didn't ask you, Mr. Yamaguchi, whether you 11 felt it necessary. I asked you -- you're an intelligent 12 man. I asked you specifically if you had chosen, not 13 whether you should have, but if you had chosen to stop 14 your aircraft and contact ramp control prior to 15 proceeding and colliding into the United aircraft, what 16 is it that you would have had to have done to do that?</p> <p>17 MR. TURNER: Objection as to form and 18 foundation as well as to counsel's snide comments.</p> <p>19 THE WITNESS: My answer is not about this 20 case, but in general terms. If there is a judgment that 21 there is a danger, then we would stop the aircraft</p> <p>22 Q. Again move to strike. Final time,</p> <p>23 Mr. Yamaguchi.</p> <p>24 In order to stop the aircraft, what physically 25 has to be done? If you're taxiing on October 7, 2003,</p>	<p>1 let's say, halfway between the engine-start line and the 2 impact on October 7, 2003, you decided that you wanted 3 to stop the aircraft, change the frequency back, and 4 contact ramp control to determine if you had clearance 5 to get past the United aircraft, would you agree with 6 me, sir, you could have done that, you could have 7 accomplished that within a minute or less?</p> <p>8 MR. TURNER: Objection as to form and 9 foundation and incomplete hypothetical</p> <p>10 THE WITNESS: I cannot answer as to 11 specifically how many seconds or minutes it takes to 12 make the judgment. Rather I do not know</p> <p>13 MR. TORPEY: Q. How long does it take to 14 switch the frequency on your VHF radio?</p> <p>15 A. I think that could be done in a second.</p> <p>16 Q. And if you look at Exhibit 2, which is your 17 own company operations manual, page 2, why don't you 18 take a look at that, Mr. Yamaguchi, Exhibit 2.</p> <p>19 If you look under taxiing at subpart 2, you 20 are required to be observant of all obstacles around you 21 and taxiing speed is such that you may bring the 22 airplane to an immediate and complete stop.</p> <p>23 You see that? You see that, sir?</p> <p>24 A. It is so written here, but I do not know if 25 the Japanese manual that I have is identical to the</p>
<p>Page 122</p> <p>1 and you decided as the pilot in command to stop the taxi 2 and then contact ramp control, to stop the airplane, 3 physically, what do you do?</p> <p>4 MR. TURNER: Objection as to form and 5 foundation.</p> <p>6 THE WITNESS: In order to stop the aircraft, 7 it is necessary to apply the brakes.</p> <p>8 MR. TORPEY: Q. Okay. And how long would it 9 take to apply the brakes and stop the aircraft if you 10 had chosen to do that on October 7, 2003?</p> <p>11 A. One cannot say categorically. There are 12 various cases.</p> <p>13 Q. On the date and time you were taxiing on 14 October 7, 2003, from the engine-start line to the point 15 of impact, if prior to impact you decided to hit the 16 brake and stop, how long would it take for you to do 17 that?</p> <p>18 MR. TURNER: Objection as to form and 19 foundation and incomplete hypothetical</p> <p>20 THE WITNESS: I would not know the exact 21 amount of time.</p> <p>22 MR. TORPEY: Q. Well, it only takes a few 23 seconds to touch the brake pedal; correct?</p> <p>24 A. If it's just touching, yes.</p> <p>25 Q. Well, let me ask you this. Mr. Yamaguchi, if,</p>	<p>1 English manual here</p> <p>2 Q. Well, let's assume that it is identical for 3 purposes of this question and all of my questions on 4 this. Okay? You understand that Mr. Yamaguchi?</p> <p>5 A. But would that not be disadvantageous for me?</p> <p>6 If the two manuals were different and I give my answer 7 based on the English version and say that that is the 8 ANA operation, that would be a disadvantage to me.</p> <p>9 Q. Well, Mr. Yamaguchi, I'm not going to comment 10 on what's an advantage and disadvantage. I'm here to 11 ask you questions under oath. Your counsel produced 12 what he produced. Now all I can do is ask you questions 13 with regard to what he produced to me not with what he 14 didn't produce to me. That's for another day and time</p> <p>15 I'm going to ask you to assume that the 16 operations manual that you have in Japanese is exactly 17 the same as the one your counsel produced to us in 18 English, which we've now marked as Exhibit 2</p> <p>19 Do you understand me so far, Mr. Yamaguchi?</p> <p>20 MR. TURNER: And I will instruct the witness 21 that he can make that assumption for the purpose of 22 Mr. Torpey's next question that the text of the manual 23 in the first two pages of Exhibit 2 is the same as his 24 manual for the same subjects in his Japanese operations 25 manual. He can make that assumption. Okay?</p>

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<p>1 MR. TORPEY: Q. That being the case, 2 Mr Yamaguchi, since your company policy in the 3 operations manual is that you're required to taxi at a 4 speed such that you can bring your aircraft to an 5 immediate stop, would you agree with me, sir, that if on 6 October 7, 2003, you chose as pilot in command for the 7 safety of the 155 people on your aircraft to stop the 8 taxi and contact United ramp, you could have done that 9 in less than 1 minute?</p> <p>10 MR. TURNER: Objection as to form and 11 foundation and an incomplete hypothetical</p> <p>12 THE WITNESS: I did not have that thought 13 because I did not feel the necessity.</p> <p>14 MR. TORPEY: Q. Again, I'll move to strike 15 That's completely unresponsive, and I'm going to move on 16 to another area since you will not respond to my 17 questions in this regard.</p> <p>18 Mr Yamaguchi, is it true that the first time 19 you saw the United aircraft was when it began pushing 20 back from its gate? Is that the first point of contact 21 that you saw the United aircraft, when it initiated its 22 push back?</p> <p>23 MR. TURNER: Objection as to form.</p> <p>24 THE WITNESS: I do not have a clear 25 recollection.</p>	Page 126	<p>1 MR. TORPEY: That's not a -- go ahead 2 THE WITNESS: Upon reading this sentence, that 3 is the case.</p> <p>4 MR. TORPEY: Q. Okay So your first -- and 5 you were in the left-hand seat; correct?</p> <p>6 A. Yes</p> <p>7 Q. And when you first saw United start to push 8 back, did you say anything at that point to anybody else 9 in the cockpit of your aircraft?</p> <p>10 A. We may have conversed, but I do not recall 11 what we said</p> <p>12 Q. Okay In the cockpit there's an area 13 microphone; correct?</p> <p>14 A. Are you talking about the cockpit voice 15 recorder.</p> <p>16 Q. There are microphones that are connected, if 17 you will, to the cockpit voice recorder so that whatever 18 is spoken in the cockpit of your aircraft can be 19 recorded by the cockpit voice recorder; correct?</p> <p>20 A. I don't know if there is a microphone, but the 21 conversation in the cockpit is recorded</p> <p>22 Q. Okay. Mr Yamaguchi, you indicated you saw 23 the United aircraft start to push. At some point did 24 you see the United aircraft stop its pushback?</p> <p>25 A. I recall that it was a very slow speed, a</p>	Page 128
<p>1 THE INTERPRETER: The interpreter will 2 restate.</p> <p>3 THE WITNESS: I do not have an accurate 4 recollection.</p> <p>5 MR. TORPEY: Q. So you don't recall at this 6 point whether the United aircraft had or had not started 7 its pushback from the gate at the time that you 8 initially saw it; correct?</p> <p>9 A. Yes.</p> <p>10 MR. TORPEY: Okay. Let's mark this 11 (Whereupon, Exhibit 7 was marked for 12 identification)</p> <p>13 MR. TORPEY: Q. Let me show you what's marked 14 Exhibit 7 Do you recognize that document, sir?</p> <p>15 A. Yes.</p> <p>16 Q. Now, if you look under the section that says 17 started taxi and you look down to the third line, it 18 says approaching spot 10, I recognized UALB77 has 19 started pushout from gate 102. Do you see that?</p> <p>20 So reviewing that, does that refresh your 21 recollection that you first saw the United aircraft when 22 it initiated or started its pushback from the gate?</p> <p>23 MR. TURNER: Objection as to form and 24 foundation and a total misstatement of what you just 25 read.</p>	Page 127	<p>1 stopping speed.</p> <p>2 Q. So does that mean that you did witness the 3 point at which the United aircraft stopped its push?</p> <p>4 A. No That's not the case</p> <p>5 Q. At some point did you note -- well, let me ask 6 you this.</p> <p>7 While the United aircraft was being pushed, in 8 other words, after the start of the push that you 9 indicated you saw, during the push, did you watch the 10 United aircraft?</p> <p>11 A. I was watching what I could see from the 12 cockpit.</p> <p>13 Q. So from your position in the cockpit, you 14 could see the pushback of the United aircraft; correct?</p> <p>15 A. Yes.</p> <p>16 Q. And could your flying pilot also see that? Do 17 you know?</p> <p>18 A. Naturally I think he could.</p> <p>19 Q. And how about the observer pilot?</p> <p>20 A. I think he could see if he had tried, but I 21 don't know</p> <p>22 Q. Fair enough. At some point did you observe 23 that the United aircraft had stopped pushing back?</p> <p>24 A. You're inquiring if it stopped. I didn't see 25 it stop. Before that, I could no longer see it.</p>	Page 129

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<p>1 Q. Well, are you continually 2 watched the United aircraft -- strike that 3 Are you saying there came a point in time when 4 you were no longer able to see any portion of the United 5 aircraft because you had continued to taxi to a point 6 that you could no longer see it? Is that what you're 7 saying?</p> <p>8 MR. TURNER: Objection as to form.</p> <p>9 THE WITNESS: No. That's not what I'm saying 10 While I could see the United aircraft, I judged the 11 relative positions of our aircraft and the United 12 aircraft. That is why we continued to taxi</p> <p>13 MR. TORPEY: Q. Mr. Yamaguchi, from the time 14 you first saw the United aircraft start to push until 15 the impact, is it your testimony that you at all times 16 had in your field of view some portion of the United 17 aircraft?</p> <p>18 MR. TURNER: Objection as to form and 19 foundation.</p> <p>20 THE INTERPRETER: The interpreter will repeat 21 the question in Japanese</p> <p>22 THE WITNESS: No. That is not so. The United 23 aircraft was no longer in my view before the impact for 24 some time, although I don't know how many seconds that 25 was.</p>	<p>1 this witness in 15 minutes I can occupy the next 15 2 minutes to ask more questions, but there's no way I'll 3 finish this deposition in 15 minutes.</p> <p>4 MR. TURNER: Are you willing to go -- right 5 now it's 6:05. Are you willing to go to 6:15? Are you 6 okay?</p> <p>7 THE WITNESS (WITHOUT INTERPRETER): Yes.</p> <p>8 MR. TURNER: Okay. Go for another 10 minutes, 9 and this deposition is then over.</p> <p>10 MR. TORPEY: Well, we'll ask the court to rule 11 on that. I think it's up to her and not you</p> <p>12 MR. TURNER: It's up to you. You don't have 13 to ask the same questions ten times.</p> <p>14 MR. TORPEY: Q. Mr. Yamaguchi, take a look at 15 your statement, Exhibit 7, and you say here that the 16 pilot flying maneuvered slightly to the left side of the 17 center line. It looked to me that the maneuver was to 18 increase the margin of clearance from United B777 19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you understand that there was a potential 22 conflict or a potential collision hazard and that was 23 the reason why the turn to the left was initiated?</p> <p>24 MR. TURNER: Objection as to form and 25 foundation and a misstatement of what you just read from</p>
<p>Page 130</p> <p>1 MR. TURNER: Just want to point out, 2 Mr. Torpey, it is now after 6:00 p.m. We started this 3 deposition at 10:00 a.m. We had just under an hour for 4 lunch. The deposition has therefore been in progress 5 for in excess of seven hours. How much time do you 6 expect to continue this evening with this witness?</p> <p>7 MR. TORPEY: Well, will you produce him again 8 in the morning?</p> <p>9 MR. TURNER: No. No. He's schedule to go 10 back tomorrow, and there is another witness scheduled to 11 begin tomorrow. As a matter of fact, you had said to me 12 when we were planning that you may not even need a whole 13 day for the witness.</p> <p>14 MR. TORPEY: Well, once again, Mr. Turner, I 15 don't know what you're referring to, but we have 16 additional questions. I'm not done with this witness, 17 and I intended to continue as long as we have to and if we 18 need be tomorrow or some other day.</p> <p>19 I'm not near finishing, and obviously there 20 are issues with regard to document production that we'll 21 take up with the court, but I have a number of other 22 questions to ask this witness</p> <p>23 MR. TURNER: Can you finish with this witness 24 in another 15 minutes if he's willing to stay?</p> <p>25 MR. TORPEY: Certainly I cannot finish with</p>	<p>Page 132</p> <p>1 Exhibit 7</p> <p>2 MR. TORPEY: And that's a speaking objection</p> <p>3 THE WITNESS: I do not know if the pilot 4 flying judged whether or not there was a potential 5 collision hazard at this point.</p> <p>6 MR. TORPEY: Q. Well, Mr. Yamaguchi, your 7 statement says that it looked to you that that maneuver 8 was to increase the margin of clearance from UAL777. 9 That's your statement, correct, sir?</p> <p>10 A. This present question is about me, but the 11 question previous to this one was about pilot flying 12 Therefore I said that I cannot tell what the pilot 13 flying thought.</p> <p>14 Q. Mr. Yamaguchi, I move to strike that.</p> <p>15 I asked you a specific question. I'm not 16 asking about the question before that. I'll ask it one 17 more time.</p> <p>18 That is your statement that it looked to you, 19 Mr. Yamaguchi, that the maneuver was to increase the 20 margin of clearance. That's your statement.</p> <p>21 My question to you, sir, is did you understand 22 in your mind as the pilot in command that day that the 23 reason your flying pilot turned to the left was because 24 there was a perceived collision hazard so he wanted to 25 increase the clearance or distance between the two</p>

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<p>1 aircrafts.</p> <p>2 Was that your thought in your mind when you</p> <p>3 made that statement?</p> <p>4 MR TURNER: Objection as to form and</p> <p>5 foundation, and you're simply arguing, arguing with the</p> <p>6 witness You're not asking him questions here As a</p> <p>7 matter of fact -- well, I said we'd go to 6:15. I'll</p> <p>8 allow this nonsense to continue for another 6 minutes</p> <p>9 THE WITNESS: Yes</p> <p>10 MR. TORPEY: Q. And on the next line of your</p> <p>11 statement you say you asked the pilot flying whether the</p> <p>12 clearance was inadequate -- or adequate. Do you see</p> <p>13 that? Let me withdraw it, and I'll restate it.</p> <p>14 Your statement says that you asked your pilot</p> <p>15 flying whether the clearance was adequate. Isn't it</p> <p>16 true, sir, that the reason you asked that question is</p> <p>17 that you as the pilot in command perceived a potential</p> <p>18 conflict or collision hazard with the United aircraft</p> <p>19 MR. TURNER: Objection as to form and</p> <p>20 foundation.</p> <p>21 THE WITNESS: I recall that it was not because</p> <p>22 of a potential for collision but rather because I</p> <p>23 thought that the clearance was closer than usually.</p> <p>24 MR. TORPEY: Q. Whether it was closer than</p> <p>25 usual or not is irrelevant unless there's a collision</p>	<p>1 pilot about the clearance between your aircraft and the</p> <p>2 United aircraft. Is that a true statement, sir?</p> <p>3 MR. TURNER: Objection as to form and</p> <p>4 foundation. Objection as to form and foundation.</p> <p>5 THE WITNESS: I do not recall that I perceived</p> <p>6 any potential conflict.</p> <p>7 MR. TURNER: It's now more than past 6:15</p> <p>8 This deposition has been going for 8 hours and</p> <p>9 15 minutes with a one-hour break for lunch. This</p> <p>10 deposition is now over.</p> <p>11 MR. TORPEY: Well, for the record, it's not</p> <p>12 over, and we don't even have seven hours of testimony,</p> <p>13 Mr. Turner. So I want it to be clear that we are not</p> <p>14 only going to move that this deposition continue but the</p> <p>15 cost of having to come back here. So if you want to</p> <p>16 terminate this deposition, you do so at your own risk.</p> <p>17 I've got my client here. Jeff Worthe is here.</p> <p>18 You made us come up from Los Angeles needlessly. We're</p> <p>19 going to have to come back here. And if you want to</p> <p>20 terminate this deposition at this point with less than</p> <p>21 seven hours of deposition testimony.</p> <p>22 And, Mr. Reporter, how much time has actually</p> <p>23 been used with testimony.</p> <p>24 THE VIDEOGRAPHER: 6 hours and 34 minutes on</p> <p>25 the record.</p>
<p>Page 134</p> <p>1 hazard; correct?</p> <p>2 MR. TURNER: Objection as to form and</p> <p>3 foundation</p> <p>4 THE INTERPRETER: The question. Can you read</p> <p>5 the question again.</p> <p>6 THE WITNESS: No, that's not so</p> <p>7 MR. TORPEY: Q. So even if there's no</p> <p>8 collision hazard and in this case you believe there was</p> <p>9 none, but you still were interested in knowing what the</p> <p>10 clearance was. Is that what you're telling this jury?</p> <p>11 A. Wanted to know.</p> <p>12 Q. Mr. Yamaguchi it's very simple. In all</p> <p>13 honesty, if you had not perceived the collision hazard,</p> <p>14 you would not have inquired of the pilot flying whether</p> <p>15 or not there was clearance; isn't that true?</p> <p>16 MR. TURNER: Objection as to form and</p> <p>17 foundation and I object that you're just arguing with</p> <p>18 the witness</p> <p>19 THE WITNESS: It was not imminent like a</p> <p>20 potential for a collision.</p> <p>21 MR. TORPEY: Again I'll move to strike.</p> <p>22 Q. The question, Mr. Yamaguchi, was not timing or</p> <p>23 the imminent nature. The question is you must have</p> <p>24 perceived a potential conflict, potential, or you would</p> <p>25 not as the pilot in command have inquired of your flying</p>	<p>Page 136</p> <p>1 MR. TURNER: This deposition is over.</p> <p>2 MR. TORPEY: We'll take it up with the court.</p> <p>3 MR. TURNER: All you're doing is arguing with</p> <p>4 the witness.</p> <p>5 MR. TORPEY: Are you moving for a protective</p> <p>6 order?</p> <p>7 MR. TURNER: The deposition is over.</p> <p>8 MR. TORPEY: Is it over because you're moving</p> <p>9 for a protective order? I'll take that as a no. That</p> <p>10 you're just terminating the deposition with no basis.</p> <p>11 So if that is the case, we'll take it up with the court.</p> <p>12 MR. TURNER: The deposition is over because</p> <p>13 we've exceeded the seven hours. You've wasted hours</p> <p>14 just asking the same questions over and over again and</p> <p>15 arguing with the witness. Deposition is over.</p> <p>16 THE VIDEOGRAPHER: Shall I go off the record?</p> <p>17 MR. TURNER: It's not over. If you're going</p> <p>18 to represent that you're going to finish with this</p> <p>19 witness in the next 30 minutes, I'll permit him to stay,</p> <p>20 but you've refused to do this.</p> <p>21 Can you finish with the witness in the next</p> <p>22 30 minutes?</p> <p>23 MR. TORPEY: I've already made my position</p> <p>24 clear, Mr. Turner, and if you're -- I'll ask 30 more</p> <p>25 minutes of questions, but I won't be done in 30 minutes</p>

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1 So if you're terminating it, I'm prepared to continue.
 2 I'm prepared to continue for an hour. I'm prepared to
 3 come back tomorrow morning. I'm prepared to come --

4 THE WITNESS: This witness is on a totally
 5 different time schedule from you and all you're doing is
 6 abusing the witness when he's been entirely helpful and
 7 courteous to you. You've been entirely discourteous to
 8 him. This deposition is over.

9 THE VIDEOGRAPHER: Shall we go off the record?

10 MR. TORPEY: Apparently, since he's leaving,
 11 we're, I guess, going to be done.

12 (Whereupon, the deposition adjourned at
 13 6:17 p.m.)

14 --oo--

15 I declare under penalty of perjury that the
 16 foregoing is true and correct. Subscribed at
 17 _____, California, this _____ day
 18 of _____, 2007.

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1 CERTIFICATE OF REPORTER

2 I, BRANDON D. COMBS, a Certified Shorthand
 3 Reporter, hereby certify that the witness in the
 4 foregoing deposition was by me duly sworn to tell the
 5 truth, the whole truth, and nothing but the truth in the
 6 within-entitled cause;

7 That said deposition was taken in shorthand by
 8 me, a disinterested person, at the time and place
 9 therein stated, and that the testimony of the said
 10 witness was thereafter reduced to typewriting, by
 11 computer, under my direction and supervision;

12 That before completion of the deposition,
 13 review of the transcript was not requested. If
 14 requested, any changes made by the deponent (and
 15 provided to the reporter) during the period allowed are
 16 appended hereto.

17 I further certify that I am not of counsel or
 18 attorney for either or any of the parties to the said
 19 deposition, nor in any way interested in the event of
 20 this cause, and that I am not related to any of the
 21 parties thereto.

22 DATED: November 29, 2007.

23
 24
 25 BRANDON D. COMBS, CSR 1297

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